

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING – INFORMAL SESSION THURSDAY, AUGUST 14, 1997

Chairman Ludwig called the informal meeting to order at 10:00 a.m. at the WestCoast Wenatchee Center Hotel, in Wenatchee, Washington.

MEMBERS PRESENT: CURTIS LUDWIG, Chairman; LIZ McLAUGHLIN, Vice Chair; MARSHALL FORREST and PATRICIA L. HERBOLD; and Ex Officio Member SENATOR MARGARITA PRENTICE

OTHERS PRESENT: FRANK MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations;
CARRIE TELLEFSON, Special Assistant, Public Affairs;
SHERRI WINSLOW, Assistant Director, Field Operations;
CALLY CASS-HEALY, Assistant Director, Licensing Operations;

and

SUSAN GREEN, Executive Assistant.

Chairman Ludwig said there is a small crowd, probably because the agenda provided for a presentation by Director Miller this morning on tribal casinos, background history and current status; however, the Commission has decided to delay that until this afternoon, because TVW will be covering the meeting this afternoon and tomorrow morning. The general public might appreciate seeing this presentation if they happen to be watching TVW at any time. He said the formal meeting will commence at 1:30 p.m. and will be followed by an executive session, which cannot be done now because Commissioner Heavey has not arrived yet, as he didn't have any reason to be here until 1:30 p.m.

Chairman Ludwig called for any general thoughts or suggestions from those present on any subject that is within the jurisdiction of the Gambling Commission.

Rob Saucier, of the Mars Hotel Corporation and the Washington State Licensed Beverage Association, said something to consider while beginning the house banking card game program is that there will be a greater opportunity for cheating and employee theft. He said his business is working with the Commission now regarding two employees who may be stealing and have been caught on the surveillance tapes. The industry has been discussing how they would like to go to the Legislature next session and propose making cheating a felony rather than a misdemeanor. Other jurisdictions consider it a felony and he thinks that would help send a strong message that cheating will not be tolerated. He understands this will take the cooperation of local prosecutors who will be willing to take the cases.

Mr. Saucier said the industry and the Commission need to have some discussion in the coming months regarding what to do about internal problems, for example, people who come in and cheat, dealers who cheat, and people who steal. Nevada and other jurisdictions have their own ways of doing it, but he said the Commission needs to determine a policy on how to work with the licensees to prevent this in order to preserve the integrity of the industry during these changes. He and a couple of industry people had the opportunity to meet with Governor Locke prior to the signing of the bill and they told him this was going to give the Commission a greater ability to regulate the industry because now they could regulate the bankers. He said his comments are directed at cheating and theft as it deals with licensees and with players.

Director Miller said there may only be a month or so left to get a bill like that done if the agency sponsors it, but it could also be done through private sponsorship. Historically, some of the penalties associated with gambling were reduced from felonies to misdemeanors and there were different degrees because prosecutors didn't want to take some of the cases, given such a severe penalty. There has been more success the last few years with

prosecutors taking cases. The problem is that when a major bookmaking operation is uncovered by the WSGC's Special Investigations Unit, it's hard to get more than a slap on the hand for those involved. The penalties are taking away their license, revoking the license for good, and imposing fines, but it's not always easy to get backing from the courts.

Director Miller said this new program will result in sort of a "mini casino" environment, because the games that will be offered and have been overwhelmingly approved by the Legislature are casino games. They are house-banked games. There are greater opportunities for people to come in and manipulate the games and make quite a heist in a short period of time. The standards the Commission puts into effect must be strict and consistent, and the people who want to play the game have to be prepared to take the risk to do so. This is a different environment than pull tabs. The proposed test, which will be before the Commission tomorrow, will help develop a model program for the state of Washington.

Mr. Saucier said one of the changes is going to be that, maybe in the past some of the licensees have been concerned about the Gambling Commission from the standpoint of "leave me alone, let me run my own business." Now the licensees are going to want to embrace the Commission and will ask for help. If these operators do not take this seriously, the weaker ones will not survive.

Senator Prentice said it's particularly fortunate that the Commission will be welcoming the newest ex officio member, Senator Ray Schow, who will be attending tomorrow's meeting. He chairs the committee that deals with gambling issues. Representative Fisher will also be present, so there will finally be some genuine legislative involvement. Representative Karen Schmidt, although she doesn't always attend, is up on these issues. It is good that this particular proposal is coming from the industry. The kinds of games people want to play have been extremely visible. The public doesn't really comprehend the whole tribal aspect of gambling and how it came about in the first place. People can't comprehend suddenly having so-called mini casinos in their own neighborhood. Regarding policing the industry, the Commission and industry definitely need to work together to try and achieve more public confidence, which will probably not be achieved immediately. The citizens are really not sure what's happening, and the Commission needs to reflect responsibly on what ought to happen.

Commissioner McLaughlin asked Director Miller how the casinos that are operating now handle the problem of cheating. **Director Miller** said they have an excellent system of internal regulation and work closely with the WSGC staff to detect it, stop it, and refer it for prosecution. Sometimes prosecutors take the cases, sometimes they don't. Each casino is required to have a "black book" with a list of people who are banned from the casinos, the WSGC staff has intelligence files on known cheaters and that information is sent around to casinos. It's a very real problem that is not going to go away; it's just a matter of being able to address it when it happens. The tribes have done an excellent job and he feels the licensees will attempt to do the same thing. It helps to have support from the local jurisdictions, as with the Upper Skagit Tribe and the Tulalip Tribes, both of which have had arrests. Cheating is not tolerated by any of the tribes. With the current wagering limits, it doesn't take long to walk away with quite a nice "hit" if it can be orchestrated with other people, such as collusion between a dealer and a player or two. The challenge to the licensees and to the Commission staff in the future is going to be very great, because these licensees won't have their own gaming agencies on premise like the tribes do.

Chairman Ludwig said that, as a legislator, he generally opposed upgrading a lot of gross misdemeanors to felonies. Even as an ex-prosecutor, he opposed that. However, in this area and in this particular situation, he would whole-heartedly support legislative changes to upgrade gross misdemeanors for cheating in licensed gambling establishments and tribal casinos to a felony. The Commission and the licensees have worked very hard to build a clean environment that the public can have confidence in. The 1973 Legislature said these activities shall be closely controlled. The Commission doesn't take a position on policy issues, but given the responsibility to control it, it might be appropriate to make a policy statement to the Legislature in support of making it a more serious crime because of the damage to gambling statewide and to the public if those things aren't given meaningful punishment.

Director Miller said the tribes have an additional benefit under the federal law, IGRA, which contains substantial penalties for thefts in a tribal casino. This would require federal court involvement and U.S. Attorney action. He agreed that stiffer penalties are needed in this state and the Commission should embrace that totally in order to bring it to the attention of the Legislature and get debate started.

Senator Prentice said this needs to be explored in depth to see what can be done. Prosecuting attorneys have to listen to their public, too, and if they're going to be lax in enforcing the law, then people should know about it. She said this is a really good suggestion, and the legislators on this Commission would be happy to talk about it. She wondered if this means the licensed beverage guys are going to come out for more regulation.

Mr. Saucier said they have worked very hard to create an industry here. Prior to 1973, all gambling was considered illegal and there were a lot of problems with gambling in this state. He doesn't want to go back to what that was. One thing that gave the Legislature and the Governor confidence in approving this bill is the fact that they believe there is a strong Gambling Commission in place with strong regulation. Thus, the commercial operators could gain equality with other things that are happening in the marketplace. They want to make sure the state doesn't go backwards on that. He said they are asking to be more regulated.

Director Miller said that tomorrow's rules packet on house banked card games is probably the most stringent regulation they have ever faced. In working together, it can be done.

Mr. Bishop said he is sure the Commission will hear from some parties regarding the level of regulation in Appendix C regarding surveillance -- how much observation has to go on, and the quality of the system -- all of which are key to the prosecution of thefts in these types of activities. It cannot be done without a quality system and someone watching.

Doreen Maloney, Upper Skagit Tribe, said they have been operating a casino for about a year and a half. She said she was interested in the comment about regulation issues that will be facing the card rooms. Quite a few people will put comment into the record tomorrow and a lot will be sending written comments to the Commission later. She said it would be beneficial if the Commission could let them know what questions they have regarding how the tribes have been operating. She said she has at least two officers on staffs who are former Gambling Commission special agents and they have had up to five on staff. They are trying to put together something on the risks they take with the amount of money kept on site to show what issues they are seeing out in the casino arena. They have been on the state side and now see what the tribal operations go through. Good prosecution is based on what kind of evidence there is, what kind of camera they have and on what was done when they were caught. The advantage the Tribe has had is that they have gaming agents on site. They have patterned their controls after the state, and have specialists that include accountants to detect fraud. They hire agents with experience in accounting and law enforcement.

Ms. Maloney said this new program will work much like it does with tribal operations in that the urban corridors will do fine, but rural community areas won't do as well. Somewhere along the line, she said they better sit down and talk about long-term policy. This is a gaming state and, at some point in time, this has to be dealt with as an entire industry. Tribal gaming, the state Lottery, taverns with card rooms, and charities are all part of the gambling industry. A long-term policy of where this is going must be developed.

Director Miller said he just learned that the state Lottery Commission is considering running on-line bingo once a day, which he finds absolutely offensive. As the director of this agency for years, he thinks it's amazing that so many groups are vying for the gambling dollar. When the state Lottery went to Keno, that was limited to once a day because of negotiations and different aspects including California cases. The charities want the Commission to write a letter opposing this, which may be a legitimate call for this body to say Lottery bingo would be crossing the line. There is no coherent state policy. Over the years, it has been developed by answers to requests for more. Last year, house banking failed. The only reason the card rooms were able to get the rake and the 15 tables from the Legislature last year was because they did away with the house banking provision at the last minute. One year later, house banking flies through with a 97-1 vote. From a Commission standpoint, it does send messages. He said Commissioner Forrest asked him one time if the Commission automatically agrees with what the Legislature says, and he answered that the Commission has an obligation to implement public policy. The staff testified that this can be regulated, although it will be expensive. He said there may be a need for a new task force to study gambling policy. State policy was made with the passage of that bill.

Senator Prentice said that, a couple of months ago, she suggested another task force on gambling in order to get an expanded view of what has been going on. The last task force visited Canada because the proposal at

that time had to do with the Canadian so-called charitable gambling prior to the opening of tribal casinos here. Now things are leveling out and some are successful and some are not. Another look needs to be taken at some shifting going on with the house-banking program. She said Ms. Maloney is correct in that those near the freeway will make it because of the location. It is to the Commission's advantage to have Senator Schow as an ex officio member because he will be pivotal in bringing about a task force on gambling. The moratorium on tribal gaming is coming up, so before that time, the task force needs to assess where the state is with gambling. She rebels at being approached, legislatively, by whomever's screaming the most or crying "poverty," or saying "level the playing field," which to her means getting the other guy. There are too many elements that are too intricately involved and are too little understood. She said the public isn't expected to really understand what the Commission is doing, particularly people who hate gambling. There are too many people in the Legislature and too few of them who really care to delve into this issue. Some want nothing to do with it. When she first talked about being an ex officio member, some advised her not to get into this area. People are going to gamble no matter what, so it should be tightly regulated. There also needs to be better legislative involvement. The Commission itself needs to know where Mr. Saucier's group fits in and, when the bingo operations are getting hit, consider what's happening in those communities, too.

Commissioner McLaughlin asked if the Lottery would become a licensee if they started doing bingo. **Director Miller** said no, that under their law, they can conduct any type of gaming they choose. Bingo is another form of lottery. This is a perception issue. The charities have called him and they are going to ask for some response from the Commission. The Lottery does have bingo scratch tickets for \$2 each. He said that over the last 10-15 years, the thing that's made gambling boom is really the state lotteries. States embrace gambling as a way to raise revenue. The number of Lottery games has grown dramatically.

Commissioner McLaughlin asked about when Governor Locke vetoed the satellite bingo bill and how that is different from the Lottery conducting bingo. **Director Miller** said the Lottery doesn't need a bill to pass in order to create its own games. He said the tougher question is, how does "house banking" get approved and is not viewed as expansion, but satellite bingo is viewed as expansion and is vetoed at the last minute? For whatever reason, it could have been lobbying or advice received.

Senator Prentice said that there was a question as to whether the bill would require a two-thirds vote of the Legislature as an expansion of gambling. The ruling from the two attorneys who advise the Lieutenant Governor said it was an expansion of gambling. It did receive a two-thirds vote and passed anyway, but she stood up and said she had read the bill very carefully and couldn't see where this was expansion. One of the attorneys called her on the floor and said, going back years on previous rulings by Lt. Gov. John Cherberg, if there was a different location, then it was considered expansion. She said that explanation must have carried over to the Governor. This is a new governor who's made it clear throughout his entire legislative career that he doesn't want to be dependent on gambling.

Director Miller said that this session, of all he's seen, has been the most bizarre with regard to gambling. Every gambling bill passed except the fund raising event bill that would have allowed charities to hire five paid employees to run their FREs, the social card room tax was vetoed but the charities got a tax break on pull tabs. Everything else that came up, including the off-track betting bill, passed the Legislature. There was one bill that would have required all tribal-state compacts in the future to received Senate approval. That was Senator Schow's bill, and as the newest ex officio member, they will probably have a lively debate over it. Director Miller testified that the Legislature might as well take over the entire negotiations process if they want to approve each compact, because the Commission can't negotiate something, bring it to them when they're in session and expect to get approval before going to the Governor. Luckily the bill was killed.

Senator Prentice said with that bill in particular she was very visible and she and Senator Schow had argument, debate and discussion. Unfortunately, it ended along party lines. Senator Bob Oke voted no on the bill. The big discussion in the Republican Caucus was that they didn't know anything about this, which is probably the reason Senator Schow has now been appointed, and he will be attending the meetings regularly. She said she argued against the bill very vehemently, but Senator Schow will now be here and he'll be listening to the entire story. If they just get bits and pieces of it, the whole picture isn't seen clearly and there is no comprehension.

Commissioner McLaughlin asked, even though the Lottery doesn't have to go to the Legislature for a new game, shouldn't it be the same as for other bingo and seen as an expansion of gambling in the state of Washington? **Director Miller** said it's not the same, but they just have greater authority to implement it. They have to have it on their agenda and hold public hearings. Their Commission determines what games they can do. He said his view is that the Gambling Commission cannot expand gambling, although it can make it more profitable by raising the wagering limits in card rooms. His view is that new activity is expansion. The Legislature determines what is legal and the Commission regulates it, controls it and sets the perimeters. The Lottery has the same authority. They cannot bring in slot machines. If this new bingo were to have a \$5-10 million hit on charitable revenues per year, then it may not be right. It's a policy issue. It is not unusual for the Commission to get involved in those issues.

Ms. Maloney said one of the things she's hearing regarding the Commission's role in the future is the idea that this body is supposed to know and understand what's happening in this state on gaming. There has been different legislation coming out from here and there, some that should have passed didn't pass. It seems like the Commission ought to determine some of the things that need to be done across the board, including legislative action.

Director Miller said there is authority for this agency to meet with the Legislature and make recommendations on what bills should pass and what legislation should be enacted, which is done occasionally. **Ms. Maloney** said that some of the commissioners and/or ex officio members can be sponsors of legislation in the future. She said the squeaky wheel is getting the grease, and the Commission should pay attention to the charities because they are going to be screaming really loud on the next round.

Chairman Ludwig said these comments so far have been very informative and helpful. He encouraged others to step forward and discuss issues that may be on their minds, particularly actions of the Commission and whether or not it is responding to the industry and treating all of the licensees equally, which is important for the members to know. He said the Commission rarely hears complaints from the public, but he said it is important to hear from licensees about problems they have that the Commission can help them solve.

No one came forward.

Chairman Ludwig said the meeting in September to be rather significant as it is Director Miller's last meeting. There will be some acknowledgement of his service to the Commission.

Carrie Tellefson said that, with regard to gambling policy and where the agency is going, she participated on behalf of the agency in the Centennial Accord between the tribes, the Governor, and state agency heads in Frank's absence. One of the big topics of discussion was economic development for the tribes, which, for the most part, means gaming. There is a follow-up meeting scheduled between the Governor and tribal leaders to discuss economic development and that will be primarily gaming as well. The meeting will take place at the end of October or early November.

Director Miller encouraged the commissioners to attend meetings like this because it is valuable to see discussions between agencies and the tribes on this issue.

Commissioner Herbold asked for specific information to be sent regarding these meetings so the commissioner can get them on their calendar. **Ms. Tellefson** said yes. With this last meeting, notice was given to the agency late so notice was not sent to the commissioners due to the short timeframe. The theme of the Centennial Accord meeting seems to be to think of the issues globally, instead of as tribe by tribe, although the agency recognizes each tribe as an individual sovereign government. The Commission is facing difficult issues in the future as to the tribes' ability to use gambling as a tool for economic development. The Commission should try to come up with some global solutions and hopefully get solutions from the tribes directly. Some of the casinos are doing well and some are not. **Director Miller** said that is a good point. Out of 12 operations in Western Washington, and with the card rooms beginning the new program, competition will be keener and keener. Slot machines are scheduled to come in to British Columbia in August. The number may be limited to 600, but the impact on Washington gaming is unknown. What other jurisdictions are doing doesn't mean Washington State's policy should change, but these are just factors to be aware of. Oregon is now looking at putting in 8-liners, which are traditional slot

machines, next to their video poker to be operated by their Lottery. With that kind of a squeeze, and with the 12 casinos employing more than 6,000 people, this is not small economic development that will be impacted. There is going to be great pressure to preserve those markets.

Senator Prentice said that, if she has her way and is appointed to a new task force on gambling, she would like to see a discussion about where the Indian sovereignty issue fits into all of this. What she finds is that most people in the Legislature don't even comprehend sovereignty and what it means to the tribes. It has been glossed. She has even seen implications that if they are sovereign nation, somehow or other they shouldn't be allowed to vote, as if they are somehow foreigners in the land. There is such a vast lack of understanding of this issue in the Legislature. Unless it is grasped, then the entire picture will not be understood.

A woman from the audience asked about the meeting discussing policy issues with the Governor and tribes. She asked if it was possible to get information about the meeting. **Ms. Tellefson** said she's not privy to exactly what is going to be on the agenda, but from what she understands, the Governor's Office is organizing a meeting to discuss economic development issues. The primary issue will be gaming, although there are certainly other economic development issues for tribes. She said she would imagine that there would be discussions of policy and future policy and direction that could potential come out of that meeting. She suggested calling the Governor's Office of Indian Affairs and talking to Debora Juarez, who will be organizing the meeting. The invitations will most likely be going to tribal leaders.

Senator Prentice asked if this is going to be similar to Governor Lowry's government-to-government meeting. **Ms. Tellefson** said that's her understanding. **Senator Prentice** said some of the people here today were at the previous meeting she attended. She asked Ms. Maloney if she was present at the one held on the Nisqually Reservation. **Ms. Maloney** said no, she wasn't there. It is her understanding that the issues that interface between the state of Washington and the tribal governments will be broken out into subjects like gaming and economic development. Natural resource issues are set aside separately. This is the first year that additional meetings have been added to the schedule in order to focus on different subjects.

Ms. Tellefson said an issue came up on the rule passed by the Commission regarding non-members selling raffle tickets. The Joint Administrative Rules Review Committee asked that the staff come before them during an informal session without a quorum. The issue was whether the Commission had the authority to define what is or is not management or operation of a raffle for purposes of who gets to sell tickets. She said she and Mr. Bishop went to the hearing in Moses Lake, which was pretty uneventful. There was some discussion of the issue and they talked about the Commission's powers and authorities, the gray area, and then the fact that the Legislative Task Force went looking into this issue a few years ago and said that, when it comes to charitable or nonprofit organizations, if there's a gray area, rules should be made to benefit charitable and nonprofit organizations. There seemed to be a lot of receptiveness on the part of the legislators on the Committee. One legislator in particular had some legal questions but seemed satisfied by the time the hearing was over with. She talked to their staff recently and they said there would be no follow up.

Chairman Ludwig asked if she knew who brought that issue before the Administrative Rules Review Committee. **Ms. Tellefson** said she doesn't know, but from what she understands, the committee staff who are assigned to particular issues get copies of every rule the Commission passes. They are asked to look at those rules and decide whether there's a statutory authority issue or not. It's a routine process and could have come about that way. When she asked the staff of the Committee, they said there had been no citizen complaints or anything.

Director Miller said it's amazing that, after all the years and the complicated rules passed by the Commission, they call the Commission up on a rule about whether or not they can define who a member is for purposes of selling a raffle ticket. And the hearing wasn't even in Olympia, they had to travel to Moses Lake. He feels it could have been handled another way. He said the rule was clearly within the Commission's authority and there was an Attorney General Opinion saying that. It's a pretty minor issue to have to go through all that work.

Chairman Ludwig said the current chairman of the Rules Review Committee is from Eastern Washington, so that may be why. When his service club holds a raffle, he tells them he can help in any area except gambling, because that's a conflict.

He thanked everyone for the comments this morning and said the regularly scheduled meeting will begin at 1:30 p.m. Meeting adjourned.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, AUGUST 14, 1997

Chairman Ludwig called the meeting to order at 1:30 p.m. at the WestCoast Wenatchee Center Hotel, in Wenatchee, Washington.

MEMBERS PRESENT: CURTIS LUDWIG, Chairman; LIZ McLAUGHLIN, Vice Chair; EDWARD HEAVEY; MARSHALL FORREST and PATRICIA L. HERBOLD; and Ex Officio Members SENATOR MARGARITA PRENTICE and REPRESENTATIVE RUTH FISHER

OTHERS PRESENT: FRANK MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations;
CARRIE TELLEFSON, Special Assistant, Public Affairs;
SHERRI WINSLOW, Assistant Director, Field Operations;
CALLY CASS-HEALY, Assistant Director, Licensing Operations;
JONATHAN McCOY, Assistant Attorney General; and
SUSAN GREEN, Executive Assistant.

Chairman Ludwig advised the audience of a change in the agenda. Director Miller's presentation on tribal gaming will take place this afternoon rather than as planned for this morning. He introduced the Washington State Gambling Commission (WSGC) staff and Commission members present. He mentioned that there were noise disturbances during this morning's informal meeting from ongoing construction and there may be more during this meeting.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

Commissioner Heavey moved that the Commission approve the new licenses, changes, withdrawals, and tribal certifications. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

REVIEW OF FRIDAY'S AGENDA

Carrie Tellefson said tomorrow's agenda includes changes from the printed agenda. Under approval of the minutes, there is a correction noted in the second handout packet. Susan Schultz, Douglas Press, spoke at length last month. The minutes are transcribed from a first person into a third person and some of the meaning is sometimes lost or changed, so she has submitted a correction. Since it was such a heated debate, it is important that someone's testimony be accurately reflected, so she will ask for an amendment to those minutes tomorrow. She said there would be no staff reports tomorrow. Ms. Tellefson said the petition to amend the pull tab rule by Dennis Zaborac of Totem Tabs would be up for final action. She had a request, however, from some of the tribal members who will be testifying on Item #10 and there will be quite a few people testifying on that package. They request permission from the commissioners to move that package up earlier on the agenda so that they do not have to wait so long.

Ms. Tellefson said Item #4 under "For Discussion," the rule is exclusivity agreements. The staff discussed that rule at length and will ask to pull that off for this time. They believe that the amendment belongs in a different part of the rules manual and so they will bring that forward to the commissioners in September. There are six rules for continued discussion on manufacturer and distributor credit pricing issues. Also on the agenda is the carry-over

pull tab rule and a couple of bingo housekeeping rules. For discussion and possible filing, there is the petition to amend card room rules and she thought that if the staff's rule package on the house banked card room rules is accepted, the intention is that this group will be pulling off their petition. Item #9 is a listing of 12 rules on gambling service suppliers and this is a proposal that assistant director Cass-Healy has been working on. It would license those people who provide services and other activities for licensed entities; however, the staff will be asking that Item #9J be deleted at this time.

Commissioner Heavey asked if there was a reason for moving the house banked card game rule. **Ms. Tellefson** said that it was on the agenda last because the rules are on the agenda for the first time for discussion and possible filing. **Commissioner Heavey** said the commissioners might be adopting a precedent where people expect to be allowed to be first on the agenda just because they have a number of people who want to speak on this issue. **Ms. Tellefson** said that in the past, the Commission has generally accommodated people when there have been large groups who want to testify so that they do not have to stay until the end of the day. She said she did not believe it was a precedent. **Commissioner Heavey** said he did not recall that general policy.

Director Miller told the commissioners that the staff would be asking that the house bank rules be adopted as an emergency tomorrow and they would explain that as well.

Commissioner Heavey said the reason he had a problem with moving agenda items around was that he knew of an instance where Jon McCoy, thinking an agenda item was later in the day attended a court hearing and when he arrived discovered that he had missed it because it had been moved up. He said that is why he has a problem with moving this item to the beginning. If there's a lot of interest in it and it is listed in #10, somebody may or may not delay their arrival because they do not think it is going to be discussed at the beginning of the meeting. **Director Miller** said he did not see Items 1-9 taking that long tomorrow. He said the only one with any potential for length would be Mr. Zaborac's petition, which he thought was relatively straightforward. **Commissioner Heavey** said that if it were an informational item, it would not matter, but if were an action item, then it should not be moved, but he said it was up to the chairman. He is raising it as a concern.

Chairman Ludwig said Commissioner Heavey raised a very good and relevant point and he would like to leave the order as it is for the time being. He left the option open to discuss it tomorrow morning and said that at the very least, they might consider moving it ahead of Item #9 because the Commission's action in reference to house bank card game rules has a direct impact on whether the petitioner in Item #8 wants their petition considered or not.

QUALIFICATION REVIEWS

COLUMBIA BASIN DOMESTIC VIOLENCE SERVICES, Kennewick

Ms. Cass-Healy said this organization's mission is to provide community service by promoting the rights of domestic violence victims. During 1996, CBDVS provided numerous program services free of charge to their clients who consist primarily of women. The services included emergency shelter, food, clothing, counseling, medical and legal advocacy, transportation, children's counseling/care, crisis services, and transition groups. The organization also provided Anger Management/Perpetrator Treatment Programs for a fee. The program was state certified in 1995 and succeeded in "breaking-even" financially in 1996 by generating \$55,000 in revenues. The program also surpassed its goal of reaching 600 women and children with its message of help and safety by serving 675 people.

Columbia Basin Domestic Violence Services met its required combined net return percentage of 10 percent for its Class "I" bingo license by achieving a 17.2 percent net return. Their year-to-date net return is 16.6 percent. More than 60 percent of the organization's gambling proceeds were spent towards providing program services and supporting services expenses were less than 35 percent of functional expenses. The organization did not have excessive reserves. Based on the analysis of the financial statements, narrative, and supplemental information provided with their application, the organization made progress toward accomplishing its stated purposes. Staff recommends that Columbia Basin Domestic Violence Services be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington.

Commissioner Heavey said that the last time this group did a formal review, it was very helpful and provided the Commission with valuable information about the good work and said that he thought it would be beneficial if Thomas Morgan, General Manager, would review what he does, how they get their money, and so forth.

Thomas Morgan, General Manager, Columbia Basin Domestic Violence Services, said they opened for business in 1977, so this year they are celebrating their 20th anniversary providing services to Benton and Franklin counties. They started out as an emergency shelter for battered women and children. Since then, they have expanded their services and provide, in addition to the shelter, a transition home. The anger management program, which was state certified by DSHS, is showing a profit. They have a thrift shop that helps them be less dependent upon the bingo revenues and they have already paid off their equipment expense. They have a first-alert program comprised of trained domestic violence advocates who ride with and assist law enforcement in domestic violence episodes. Surprisingly, even though they have had a very high profile for the last six years or so, they still find that some people have never heard of these services. Some of their revenues come from state grants – COPS, STOP -- which is pass-through money, none of gets to stay with the organization, but it allows them to provide some enhanced services. Lastly, they are in the process of putting together a national 250-word essay contest in which the prize will be a four-plex apartment building. He is still getting approvals from each state's attorney general where the contest is being advertised.

Chairman Ludwig asked Mr. Morgan to tell the commissioners how the on-scene advocate works with law enforcement. **Mr. Morgan** said there had been some difficulty in the beginning with law enforcement wanting a woman in the cruiser with them. These calls can be very volatile and law enforcement officers have lost their lives, so they were worried at first, but it has worked out very well and they now embrace the concept. Right now Richland, Kennewick, and West Richland enjoy this service and they are hoping to extend it to Pasco and eventually to Benton City and maybe even as far out as Connell. The procedure is to remove the perpetrator of violence first. The advocate goes over options with the victims, such as getting restraining orders, no-contact orders and the ability to just be safe by going to a shelter with the children. They are then guided into the social services network. They are assisted with getting Aid for Dependent Children, food stamps, and there is a nice apartment complex if they want to move into that. They try to cover as many bases as possible with extremely limited reserves, but he thinks the advocacy program is working very well.

Chairman Ludwig asked what the shelter capacity is. **Mr. Morgan** said the shelter can house 35 women and children at this time and it is constantly full. They try to budget every year a certain amount to handle the overflow at motels. Quite often they will stay in a motel in a safe location nearby. It is only a sleeping arrangement for them, but they receive all of the other services of the shelter and of the agency and are transported back and forth. Sometimes there are men who have full custody of their children and are actually victims of domestic violence who are being battered by their wives. These men usually go to the motels because the shelters are primarily set up for women and children.

Commissioner McLaughlin said she noticed that the organization was in a deficiency of over \$200,000, whereas in 1995 they had a slight profit and she wondered what happened. **Mr. Morgan** said that in 1995 and 1996, they built the new bingo palace and that took a significant amount of their reserves, which is what they had to bring to the table. On top of that, 1996 was not a particularly profitable year for the bingo game in general so revenues actually fell off in 1996. **Commissioner McLaughlin** asked how they were doing in 1997. **Mr. Morgan** said the first quarter was hopeful, the second quarter diminished that hope, and right now things are looking rough. Summer is always the worst quarter because of vacations, it's too hot and people do not want to go out to play bingo. In the fall, it picks up again and if the winter is mild, business will be exceptionally good carrying over into the first quarter. He said they expect to recover.

Commissioner Herbold noted that the public support in the revenue column increased from approximately 35 percent to 46 percent between 1995 and 1996. She wondered if he expected that to stay level, increase or decrease. **Mr. Morgan** said he hoped it would increase to their goal of more than 50 percent. **Commissioner Herbold** asked what the turn-away rate is for victims when the shelter is full. **Mr. Morgan** said they never turn anyone away. They have a number of fall-back positions that they use. For example, it depends on the number of people in the shelter. They might have a full house of 35; but they will have rooms at the motel and they can put somebody in if they have the extra revenue. Other options are volunteers who have extra rooms in their

homes that they share. Other local organizations help pick up the slack including the transition home or the apartment building. **Commissioner Herbold** asked if it was a confidential shelter. **Mr. Morgan** said yes.

Senator Prentice asked if their employees are bilingual. **Mr. Morgan** said yes.

Commissioner Heavey said the reason he wanted Mr. Morgan to tell about the services this organization provides is because these are public services that ought to be supported by tax dollars and are not. He said he hoped that the Legislature would give the same attention to this activity as has been given to activities that are of a private profit-making type venture. He said there is a lot of competition out there that is not going to benefit the public as a whole.

Chairman Ludwig noted that the organization's net bingo revenue supports over half of their direct program services and he thought that indicated that Mr. Morgan was doing a good job.

Commissioner Herbold moved that the Columbia Basin Domestic Violence Services be approved as a charitable organization authorized to conduct gambling activities in the state of Washington; **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with five aye votes.*

SPOKANE ATHLETIC ROUND TABLE, Spokane

Ms. Cass-Healy said the purpose of the Spokane Athletic Round Table is to promote sports activities for underprivileged and handicapped children, contribute to and help support current sports programs of colleges and universities in the Inland Empire, subsidize specially gifted athletes in need of financial assistance, promote amateur athletic events, help sponsor and subsidize Spokane City and County Parks and Recreation activities and provide direct program services to various golf, football and baseball programs. Spokane Athletic Round Table provided civic and charitable services through cash contributions to sports programs for underprivileged and handicapped children and other various athletic non-profit/charitable organizations. Through these contributions, approximately 15,000 to 20,000 individuals were served during the last fiscal year. The organization has significantly expanded its Junior Golf Program services over the past year. Funds expended on direct program services increased from \$20,000 in 1995 to \$64,000 in 1996 and the organization expects further expansion in 1997. Spokane Athletic Round Table did not meet its required combined net return percentage of 12 percent for its Class "J" bingo license. However, the organization's net return was 9.2 percent. This organization received a notice of intent to limit license for its 1997 license year and is petitioning for a brief adjudicated procedure with the Director, which has yet to be scheduled. Based on the staff's analysis of the financial statements, narrative, and supplemental information provided with their application, the organization made progress toward accomplishing its stated purposes. The staff recommends that Spokane Athletic Round Table be approved as a bona fide nonprofit organization for purposes of conducting authorized gambling activities.

Chairman Ludwig said the net income from bingo only for 1995 to 1996 stayed pretty constant, but the figures show a net loss on other gambling activities – pull tabs and punchboards – and wondered how they explained that. **Ms. Cass-Healy** said that, according to the organization, the IRS did an audit and recommended that they change their allocation methods. This loss is a result of the change in allocation methods.

Chairman Ludwig asked if that was a one-time loss. **Ms. Cass-Healy** said they are working with the staff on those particular issues and they think they will recover somewhat. **Director Miller** asked if he was correct in thinking they did very well the first two quarters of 1997.

Larry Gufstason, Executive Director of Spokane ART, said he did not recall the exact figures, but he said they showed a big improvement in the pull tab area. He said it was more a matter of allocation of expenses than anything. He reiterated that there had been an audit by the IRS earlier this year and, as a result, they would be allocating less overhead and operating costs to pull tabs and it should be a positive number by the end of the year. He said the obvious reason for doing that was because they must pay taxes on pull tab income -- federal income tax -- but they do not have to pay it on bingo. He said they have been told what they can or cannot do and they expect that to be a positive figure before the end of the year.

Chairman Ludwig said that was an understandable explanation. **Ms. Cass-Healy** pointed out that the net return for the organization year-to-date is 13.6 which means they are well within compliance.

Director Miller said this was a major improvement for this organization because over the years they had had some tough issues to work with. In the Spokane market alone, which has been almost a sick market, the agency removed one of the games which is starting to bring the market back and they are hopeful to see a much more improved market in Spokane County.

Lawrence Smith, a President of Athletic Round Table, played a short video tape which showed what this group does.

Chairman Ludwig asked if there were any comments or questions from anyone present.

Commissioner McLaughlin moved to approve the Spokane Athletic Round Table as an athletic organization and authorized to conduct gambling activities in the state of Washington; **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

YWCA of YAKIMA

Ms. Cass-Healy said the purpose of YWCA of Yakima is to ensure a strong, vital force in the community that is responsive to the needs of women and their families. There are 310 active members with a board of 21 members, including 4 officers who conducted 11 meetings during the last fiscal year. They provide services through 14 programs: the volunteer attorney services, children at risk, a woman's place, working women's wardrobe, the residence, the family crisis program, the 72-hour program, child link, girls empowered math science program, emergency shelter assistance, homeless prevention program, crime victim advocacy, perpetrator treatment program, and BCHP encore, which provides breast and cervical cancer education and outreach.

The YWCA did not meet its required net return percentage of 12 percent for its Class "J" bingo license for the fiscal year. The organization's net return was 11.6 percent. In lieu of limiting the organization's license, the staff allowed them the option provided by the rules to provide evidence of meeting net return for the six months immediately preceding the time that the net return violation was discovered. The organization's net return for those six months was 13.9 percent and they were allowed to remain at their current license class. The YWCA also did not meet their budgeted gambling revenues expectation for 1996, nor did they receive two substantial grants, resulting in a deficiency of revenue over expenses. The organization used funds from their cash reserves to make up for the deficiency so they would not have to cut back on their program services. They expended more than 60 percent of their net gambling income for providing program services and supporting services expenses were less than 35 percent of functional expenses. The staff recommends that the YWCA of Yakima be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington.

Chairman Ludwig asked if anyone from the organization was present. **Carol Chote**, primary bingo manager, came forward. **Chairman Ludwig** asked about the perpetrator treatment program. **Ms. Chote** said she is not as involved in the programs as the executive director or other managers would be but she said they offered anger management classes for men and women alike.

Senator Prentice said she was interested in the homeless prevention program that focuses on prevention and the assistance of homeless women in Yakima. **Ms. Chote** said their programs help women in transition, such as those moving from city to city. They offer temporary housing for those women during the time they are looking for homes and jobs.

Chairman Ludwig asked if there were any questions of Ms. Cass-Healy regarding financial statistics of the YWCA. No one had questions.

Commissioner Heavey moved to approve this organization as a charitable organization and authorized to conduct gambling in the state of Washington; **Commissioner Forrest** seconded the motion.

Vote taken; motion carried with five aye votes.

YAKIMA GREENWAY FOUNDATION, Yakima

Ms. Cass-Healy said the Yakima Greenway Foundation received temporary certification in November of 1996 so that the staff could evaluate the organization's compliance with program expenditure requirements for their fiscal year ending December 31, 1996. The organization has since requested and has been granted an extension on their annual qualification and financial report until July 31, 1997. Those documents were received, and they did a preliminary review and determined that the organization still was not in compliance with the program expenditure requirements for the fiscal year ended December 31, 1996. She said that in lieu of requesting additional temporary, Commission staff would like to request a conditional certification with the following stipulations:

The organization shall develop and submit a plan to insure compliance with the program expenditure requirements for the year ending December 31, 1997, no later than September 15, 1997. The organization will meet with the Commission staff to discuss the proposed plan and requirements by September 30, 1997, and the organization shall provide the Commission with proof that it has followed the plan and made progress towards complying with program expenditure requirements for the year ending December 31, 1997, no later than January 15, 1998.

Commissioner McLaughlin asked if they have made any headway toward reaching the goals set for them. **Ms. Cass-Healy** said they have not seen any at this point, but since they have just done a preliminary review, the staff feel that, under these conditions, they can work with the organization more closely and determine that as they go along which is what they are trying to accomplish.

Senator Prentice asked if anyone was present from this organization. No one came forward.

Commissioner Herbold asked if they were cooperating and if they are really making an effort in this regard. He wondered if this would take a lot staff time to follow these conditions and if it was worth all the effort. **Ms. Cass-Healy** said it will take a little additional review, but it is worth it in the long run. It is a very difficult percentage to meet in the sense that they have to project their revenues and make sure they spend enough for services to meet the percentage requirements. She said they were making an effort in that direction.

Senator Prentice asked if this group would be at the October Commission meeting. **Ms. Cass-Healy** said no, that the staff is requesting a conditional and just monitoring at the staff level and at that point instead of bringing it back before the Commission, staff would make a determination whether they were meeting requirements.

Senator Prentice said she had a question about their program and this is a very different one from the focus of some of the others. She is interested in knowing what they actually do regarding their efforts on repairing damage from the floods from 1996. She wants to know what it is volunteer organizations are doing. She said she agrees with what Judge Heavey said and is not sure if the Commission is supplanting what they ought to be doing or if this is instead of or in addition to, but she is particularly interested in what their actual efforts are. **Ms. Cass-Healy** said she would see to it that Senator Prentice got that information.

Chairman Ludwig asked if the Commission adopts her recommendation and grants a conditional review, would Ms. Cass-Healy be in a position to give them an update at the October meeting to see how they have complied with the September 15 and September 30 deadlines. **Ms. Cass-Healy** said yes.

Chairman Ludwig said that, assuming that they might not comply, he wondered if the Commission would be in a position to revoke the conditional approval. **Ms. Cass-Healy** said the option would be to go through administrative charges at that point. That would be the choice.

Chairman Ludwig also said that they are currently certified as a Class "J" bingo licensee. He asked if they could be dropped down in classification and be in compliance. **Ms. Cass-Healy** said that might not be possible because this is a different requirement than the net return. This has to do with providing adequate program services compared to their gambling revenues overall. It is a different measurement that pertains to meeting their purpose.

Mr. Bishop said that they must spend at least a certain amount of their income on programs and it has to do with demonstrating that they have made significant progress toward their purpose. So reducing them in income would not necessarily meet this purpose, although it would give them less money they would have to spend.

Commissioner Herbold asked if action on this item could be deferred until October, rather than giving conditional approval, which then kicks in an administrative process later on. **Ms. Cass-Healy** said yes. Technically, the Commission could extend their temporary. Right now they are under a temporary certification that was granted prior to this and it expired at this meeting.

Director Miller said this is a classic example of some of the limitations placed upon the Commission in this process. He said that the Commission does not have the authority to take action to revoke their license while checking to see if there was a problem that warranted the revocation. So they must grant temporaries or conditionals and keep it going. Any attempt to remove them or suspend them or do something based on a violation would require separate administrative action. It would come to the Commission through the appeals process. This brings to light the difficulty in this environment. If an organization was really far out or in a bad situation, the staff would not bring them to the Commission. They would start the process and give a temporary until pending charges were completed. After Ms. Cass-Healy said the issue was simply that they are not spending enough money, he said to the commissioners that the organization is making its money, it is just a matter of how they are spending it. He said it comes down to the heart of the whole thing -- are they making progress toward their statutory purpose? This is how the staff measures that. **Ms. Cass-Healy** said that they would get together to go over these very things Director Miller expressed were needed.

Chairman Ludwig pointed out that this organization received in 1995 a substantial amount of non-gambling revenue. Gambling income is a small part of the \$900,000 that they had in revenue for 1995, which is unusual compared to some of the others that are really charitable.

Commissioner McLaughlin noted they get income from FEMA and asked how this group works as an adjunct to the county and what Public Works in Yakima County does for flood repair and how this whole agency was formed and why. **Ms. Cass-Healy** said this report was actually presented at a prior meeting and they had gone over some of that and the purpose of today's report is just to extend the temporary or give it a conditional, but she said she could get the additional information Commissioner McLaughlin requested.

Commissioner Heavey said it appeared, after looking at the report, that at the last meeting they gave them temporary approval until July 31, 1997. He pointed out that if the Commission does not do anything at this meeting, he interprets that they no longer have a license and he urged that they do something about the issue at this meeting. **Mr. Bishop** said they had requested a conditional to keep this from having to come forward. They asked for another temporary, which means they must come forward again.

Commissioner Heavey moved to adopt the staff's recommendation and conditionally approve Yakima Greenway Foundation as a charitable organization to conduct gambling operations in the state of Washington

Commissioner McLaughlin seconded the motion. **Chairman Ludwig** said the conditions are in the August 14, 1997, letter to the Commission from Ms. Cass-Healy and he wants a report in October as to whether they have met those deadlines. He asked if anyone from the organization was present; no one came forward. He asked for public comment; no one came forward.

Vote taken; motion carried with five aye votes.

Chairman Ludwig said it was refreshing to hear about the outstanding work being done in the charitable gambling areas of most of the organizations that were presented today and he reiterated what Commissioner Heavey had said before -- that it is a good example of non tax dollars at work.

OTHER BUSINESS

Chairman Ludwig called for any discussion; no one came forward. He said the next item is a presentation by Director Miller, which will take about an hour.

I.G.R.A. PRESENTATION

Director Miller gave a presentation on the history of the federal Indian Gaming Regulatory Act of 1988. To request a copy of the audio tape or a transcription, please contact the Gambling Commission at (360) 438-7640.

EXECUTIVE SESSION

Chairman Ludwig called for an executive session to discuss general personnel matters. There will be no further public action taken except to adjournment.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, AUGUST 15, 1997

Chairman Ludwig called the meeting to order at 9:35 a.m. at the WestCoast Wenatchee Center Hotel, in Wenatchee, Washington. He introduced the WSGC staff and Commission members at the head table.

MEMBERS PRESENT: CURTIS LUDWIG, Chairman; LIZ McLAUGHLIN, Vice Chair; EDWARD HEAVEY; MARSHALL FORREST and PATRICIA L. HERBOLD; and Ex Officio Members SENATOR MARGARITA PRENTICE, REPRESENTATIVE RUTH FISHER, and SENATOR RAY SCHOW

OTHERS PRESENT: FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; SHARON TOLTON, Assistant Director, Special Operations; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing Operations; CARRIE TELLEFSON, Special Assistant, Public Affairs; and SUSAN GREEN, Executive Assistant.

Chairman Ludwig said that the Commission had reconsidered the order of the agenda but decided it wouldn't be fair to those who expected the item to be later on the agenda, so the order remains the same as the printed agenda. There are no staff reports today. He introduced the head table.

APPROVAL OF THE MINUTES FROM THE JULY 10-11, 1997, MEETINGS

Chairman Ludwig said there is a change to the minutes.

Ms. Tellefson explained that the Commission minutes are transcribed from the first person to the third person paraphrase and occasionally the meaning is lost in some of the minutes. Susan Schultz from Douglas Press submitted a statement that she prepared for the last meeting that was included in the handout packet that more accurately reflects her testimony from the last meeting. She said it was important that the minutes accurately reflect Ms. Schultz's testimony since it was such a heated debate. Ms. Tellefson asked that Ms. Schultz's printed statement be substituted for the testimony in the minutes on pages 28 and 29. She said copies were available to any members of the public who would like one.

Commissioner Heavey said he did not think it was appropriate to have someone from the public amend these minutes. He had a problem having this be an amendment to the minutes. **Ms. Tellefson** said it just could be noted that Ms. Schulz had submitted it and anybody who would like a copy could have one since it was a public record. **Commissioner Heavey** said he did not have a problem with her submitting it, but he had a problem with it being an amendment to the minutes. She has an absolute right to file with the Commission something that she believed she ought to file with the Commission.

Commissioner Forrest said it should be made part of the addendum and to just say it had been submitted as further explanation of the remarks.

Commissioner Ludwig said he wanted to make the observation that minutes are not a verbatim transcript in any event, but are simply minutes of the meeting, so he attached it and said he assumed the commissioners all had ample opportunity to read the minutes previously prepared. He then called for a motion on those minutes.

Commissioner Heavey moved that the minutes of July 10-11, 1997, be approved as submitted with the attachment from Ms. Schultz. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.* **Chairman Ludwig** said the minutes were approved with the addendum.

RULES

PETITION TO AMEND PULL TAB RULES

Amendatory Section – WAC 230-30-106

Standards for flares made by manufacturers, distributors and operators.

Ms. Tellefson said this an amendment to WAC 230-30-106, which is up for final action. The amendment is proposed by Dennis Zaborac of Totem Tabs Service and the request is to require pull tab players to display the initial odds of winning the top prize.

Dennis Zaborac, Totem Tabs, said he had nothing further to present on this petition. However, he did bring some players with him from Seattle, not with the intent to back him up, because he thought it was obvious to all that one would be hard-pressed to find opposition from the players to put the odds on the flare. He said in the nine months he had attended these public meetings he had not seen any players at them. He said the Commission got its information based on the industry saying what the player wants. He thought that made it biased, at times, so he brought the players with him. He asked if somebody in the industry, the commissioners, or the director could explain to the players why they should not have the odds on the flare.

Commissioner Heavey asked if Mr. Zaborac was shifting the burden to the Commission. **Mr. Zaborac** said yes, he thought that was what he intended, because the group was saying it was unnecessary but no one had given him a reason why it was unnecessary. That was what he was looking for from anybody.

Director Miller said the staff did not believe it was an added protection to the player; however, he said that, based on his request, they had recently gone to requiring the number of ticket on the flare, which they thought was an added protection. Most players know what prizes are available and by just putting the initial odds of a game -- one out of five thousand to win the top prize -- wasn't accurate because it changes immediately. He said he thought the cost of making changes outweighed the protection gained. **Mr. Zaborac** asked what the cost was. **Director Miller** said the cost was to manufacture the changes to the flares. **Mr. Zaborac** said that they were not asking them to change the old games; rather all future games. He said the flares had not been designed yet. **Director Miller** said it was still an additional cost which he said did not clearly outweigh the protection gained. He said that they had met about it, he looked at it, and he appreciated Mr. Zaborac's comments, but he still did not believe it was an added protection. He said they received very few complaints on this industry, it was well regulated, the people like the way the games are played in this state and he thinks if they do too much tampering on certain things, it is not going to be such a great protection that warrants the cost.

Chairman Ludwig asked Mr. Zaborac if any other jurisdictions have requirements such as he is proposing. **Mr. Zaborac** said no, but his understanding is that Washington state has the biggest pull tab market in the country and the biggest usually sets the trend. **Chairman Ludwig** said he thought that was correct.

Commissioner Heavey asked what Mr. Zaborac's position was. **Mr. Zaborac** said he was a pull tab management service. He said operators hire him to maximize their profits. **Commissioner Heavey** asked if Mr. Zaborac was a player. **Mr. Zaborac** said he was before he started. **Commissioner Heavey** invited any players there to talk if they wanted to. **Mr. Zaborac** said that that his understanding of what was being said was that there were not enough complaints against this to justify change. He wanted to know there are complaint in the future, would they be able to resubmit it. **Director Miller** said there had never been any complaints from players until there was an article in the Seattle P-I last year. **Mr. Zaborac** asked what would happen if an ad came out next week. **Director Miller** said that if they wanted to spend the money they could, but he was looking at the growth in pull tabs, the confidence of the players, and that Washington has the largest volume in the country by three times. People feel confident with this product. He said putting the odds on the flare may change the nature of some of the games Mr. Zaborac was talking about potentially, but he still believes the market controls that because he thinks the players will ultimately go to the games they want to play.

Chairman Ludwig said this is up for possible final action today. He said he doesn't think the Commission can ever provide the protection that Mr. Zaborac was suggesting if the Commission still permits the operator to pull a game at any time because those odds actually meant using all of the pull tabs. He wondered if he were correct in thinking that. **Mr. Zaborac** said yes, but the ticket count is the same, so he wondered what they were saying the ticket count is worth if, after the first dollar is bought, what protection does that give them? Why is the ticket count even on then? **Commissioner McLaughlin** said because Mr. Zaborac suggested it. **Director Miller** said it was to let them see the initial size of the games. **Mr. Zaborac** said that that was what he was asking that the initial odds go onto that game. He said if the commissioners had read the letters he had sent, what they were looking at was a trend toward those odds of winning the top prize being much less than they were three years ago.

Commissioner Heavey asked on whose behalf he was speaking. **Mr. Zaborac** said it was himself and maybe the players and after further questioning he narrowed that down to himself. He said he spoke on his own behalf and what he sees in the market.

Commissioner Herbold said that Mr. Zaborac had indicated that so far he had not heard any reasons from the Commission as to why they might not agree with him. She said she recalled from the last meeting that she said she was not a player and did not know much about the game, but she knew how to look at the total number of tickets and the number of top prizes and figure out what the initial odds are. She also knew that once a ticket is bought, the odds change. She said she just did not see the point, and that is speaking as a non player.

Mr. Zaborac asked her about step-up games where a player cannot look at it and figure out the odds. He said the step-up game was a situation where the player must win three times to win a prize, so it becomes geometric progression. He said he questioned whether 10 percent of the people present could figure out the odds on some of those.

Director Miller said there were not as many of the step-up games out there compared to the majority of the market. He said they were pretty popular, but no complaints have been received even though they have been out there for about a year or year and a half. He said the agency requires the signs out there telling players that operators no longer mark the prizes off and they have done everything they could to inform the players because the staff believes in it strongly. It is the fundamental purpose of the agency to protect the players. He does not see any added benefit in requiring the odds.

Commissioner Heavey said the comment was made that once that first ticket was played and if it is not a winner, the odds change. The question he had was, do the odds get worse, do they get better, sometimes better, sometime worse? He said that as the player goes through playing the game and at some point, as Chairman Ludwig had pointed out, they pull the game and then the odds didn't mean anything at all.

Director Miller said that was right and that over the years the number of tickets in a game increased from 6,000 to 10,000. He said that he thought the odds would get better as the game goes down because there are fewer tickets. He said the way most of the games were played, once the top prize is gone, the game is for the most part gone; that is why the game must be pulled because they just sit there forever. The operators are actually playing against the player. The key is the average pay out is still around 69 percent statewide, it has not gone down, but the odds do get better as the game goes down. It actually is more in the player's favor.

Mr. Zaborac added that in any situation where the initial odds are given that does change. The lotto says one in seven million, but if the player is standing in line behind another player, he is still thinking "one in seven million." He said the only thing out there where they actually update odds to his knowledge is at the race track where, for every dollar that is bet, they change the odds. Whether it is a McDonald's game or scratch tickets where they give an odds ratio – it changes after the person in line and people know that.

Robert Saucier, Washington State Licensed Beverage Association, said he had been asked to express that the Association is opposed to this amendment. He said Commissioner Heavey asked whether or not the odds go up or down. He said that theoretically if there is a single top prize and as more tickets are bought, the odds go up. However, if there is more than one top prize and one of those prizes is won, the odds go down. So the problem is that the odds in pull tab games are going up and down all the time. In a game that uses a random number

generator, the odds are consistent. If the player has a 1 in 5,000 chance, the first time a ticket is purchased, the player has a 1 in 5,000 chance, and the second time, which is the way it works. Pull tabs are a completely different form of gaming in that there is a fixed number of tickets and the game that players play is they know what the initial number of tickets are, they know what the prizes are, and then they try to guess how many tickets are in that jar. To put odds on the flare is not going to protect the players; it is going to confuse them because it changes. He thought it would be more misleading than a protection. **Commissioner Heavey** said that was the purpose for his question – whether it was going to mislead or whether it was actually going to be helpful to the players. He said that what Mr. Saucier was saying is that the information was misleading. **Mr. Saucier** said that the only time that the odds were true was until the game was put into play.

Mr. Zaborac said that he understood that the petition would state the initial odds just like they state the initial ticket count.

Bill Wheeler, a pull tab player, asked how many people present gamble or go to Las Vegas to gamble. He said he does and has a good time and he works for a bar and plays pull tabs and all of it. He said he cannot see why there cannot be more winners on a deal. After putting in \$30, a player should at least win something. When Chairman Ludwig asked him if he was speaking in favor or against the petition he said, “either way.”

Chairman Ludwig called for any other public comment; no one came forward.

Commissioner McLaughlin moved that they do not amend WAC 230-30-106; **Commissioner Herbold** seconded the motion. **Chairman Ludwig** restated the motion as being that they not grant the petition and thereby not amend administrative code 230-30-106. *Vote taken, motion carried with five aye votes.* **Chairman Ludwig** said the motion is adopted and the petition is rejected.

EXCLUSIVITY AGREEMENTS

Amendatory Section WAC 230-12-230

Agreements restricting freedom to buy and sell -- Prohibited

Ms. Tellefson said this was listed in the agenda as up for final action, but the staff is requesting that the Commission continue the discussion process until September. The staff plans to discuss the issue and bring it back as an amendment to another rule where it would more appropriately fit next month.

Chairman Ludwig said that unless there was an objection, agenda item #4 would be deferred until the September meeting at SeaTac.

Commissioner Forrest said he would like to see a paragraph saying why this rule is necessary. He said he had gone through each one of the drafts and he still did not understand why either the staff or the industry thought it was necessary. He thought it would speed up the discussion if they had a brief written statement of basic policy reasons why this would be good for the public interest. **Ms. Tellefson** said the staff would do that and that they had been debating whether it was necessary also.

MANUFACTURER and DISTRIBUTOR CREDIT/PRICING

New Section WAC 230-12-320 – Manufacture and distribution of gambling equipment and services – Prohibited practices—Gifts, promotional activities, and loans – Exceptions.

New Section WAC 230-230-12-330 – Availability of gambling equipment and related products and services—Prices—Contracts --Discounts—Restrictions—Exceptions

New Section WAC 230-12-340 – Sale of gambling devices, equipment, supplies, paraphernalia, and related services—Credit prohibited—Exceptions.

New Section WAC 230-12-350 – Use of checks to purchase gambling equipment, products, and services—Restrictions

Repealed Section WAC 230-12-200 – Prohibited practices—Contracts—Gifts—Rebates, etc.

Repealed Section WAC 230-30-200 – Punchboard and pull tab business restrictions.

Chairman Ludwig said these rules had been discussed previously and the item is on today's docket merely for further discussion and possible final action in September.

Ms. Tellefson said this agenda item includes six rules up for further discussion that have been discussed with the industry for a number of months. There is some written testimony included in the hand-out packet. The package sets forth the policies on extension of credit between manufacturers and distributors, puts limitations on gifts and other promotional activities, and sets forth standards for pricing and discounts. It also sets forth procedures on acceptance of checks. The staff is continuing to work with the industry and is making minor modifications on the package. At the September Commission meeting, there will be quite a few members of the industry expected to testify.

Commissioner Forrest asked if the impact of this would make the credit policies more uniform at each level of the industry. **Ms. Tellefson** said yes, that was the idea.

Commissioner McLaughlin asked how this would be enforced. **Ms. Tellefson** said they have a manufacturer-distributor coordinator special agent assigned to deal with manufacturers and distributors specifically. One of her major duties, as she understands it, will be to enforce these policies and to work with the industry on this.

Commissioner McLaughlin asked how many distributors and how many manufacturers this one person works with. She asked, if this should be enacted, would more help be required. **Ms. Tellefson** said that the staff did not anticipate having to hire more help as far as she understood this one.

Ms. Winslow answered that the agency has approximately 30 distributors and 12 to 14 manufacturers and the coordinator has a good handle on it. If it passes, she will be working with the field staff in trying to coordinate this activity. She said the way the rule is set up it should actually be very helpful in clarifying the agency's position on discounts and any types of gifts. Originally, they did not have the detail covered on how they would regulate this, so this should be helpful.

Chairman Ludwig asked Ms. Winslow if she foresees any increased fee or cost to those manufacturer or distributor licensees if the rule is adopted. **Ms. Winslow** said not because of these rules, but they did increase the price on some of the stamp fees and some of the inspection costs with the original punchboard/pull tab package.

Commissioner Heavey asked if the manufacturers would have to report to whom and how much.

Ms. Winslow said she believed that was in the package but because she did not draft the package, she could not be positive.

Mr. Bishop said they have always had to report on their quarterly activity reports if they had credit over 30 days old. This requires them when they have someone in what they would call default to give the staff a phone call and say so and to follow up with some written documentation. He said they do not currently have to do that because the agency has no mode of enforcing the no credit rule.

Commissioner Heavey asked if he had clients who do not pay, could he use the agency services, as well. **Mr. Bishop** said that is one of the arguments that no one else has anyone enforcing their accounts receivable, which many of them would certainly love to have.

Commissioner Herbold said she had several questions. In connection with WAC 230-12-320, relating to gifts, she noticed that, with respect to promotional merchandise and services offered to a distributor, there was a cap of \$1,000 per year. However, she did not see a cap with respect to entertainment, such as meals and sporting events, nor did she see one with respect to in item #3 "promotional merchandise of nominal value," and they give the example of T-shirts, caps, etc. and the words "each item shall not exceed \$15." She wondered how the staff deals with the situation, for example, where a manufacturer provides an operator with 20 T-shirts and baseball caps, the total value of which is over \$1,000. She wondered if there should be a cap on the maximum number of items.

Mr. Bishop said the staff had discussed this with the manufacturers. He said they were currently not allowed to give anything to an operator, not even a pencil under the agency rule. The staff had talked about putting a per month or per year value on it. What they typically do is, to promote their items, they will give away a T-shirt for each case purchased, which gives them a valid promotion. Mr. Bishop thinks it would be going overboard to do what the existing rule is trying to accomplish so staff decided, after talking to the manufacturers, that there was no real regulatory reason to do it. There might not even be a regulatory reason to prohibit gifts to start off with, but it has always been the policy of the Commission.

Commissioner Herbold wondered if it would be meaningful to just have a \$1,000 per year cap across the board for any type of gift or promotional activity. **Mr. Bishop** said that could be done but he said that would place another burden on the staff to measure it to keep records on it. He said he does not think it accomplishes the goal and he personally thinks there should not be any limit on what they want to give them. If they want to go broke promoting their product, that should be their choice. He said what the staff is trying to do if they can is to make it workable without changing the policy that has been in place since 1973 regarding these transactions between manufacturers, distributors and operators in the supply chain. The staff constantly discovers that someone has given a ball cap or something but they do not want to write them up over it. They also do not want to avoid the problem either if it is a regulation. The staff wants to find the level whereby they can achieve the most satisfaction from everyone.

Commissioner Herbold had another question regarding WAC 230-12-330, in Item #1(a), she read that for purposes of this section, prices are deemed, established and available when they are mailed or transmitted to the Commission. She wondered how that advises the licensees if it is only mailed to the Commission because the prices need to be established and available for every licensee's review prior to accepting a sales order. She asked how getting that information to the Commission gets it to the licensees. **Mr. Bishop** said typically, the distributors will have the price list posted in the warehouse. Or, their sales representatives who drive the truck walk into an operation with a price list. The staff thought it would be over burdensome for them to have to mail to every potential licensee (there are approximately 2,500 operator level licensees) when in fact they may only deal with 100 of them. The staff's main interest is that prices have been regulated since 1973. The staff has been back and forth with the distributors. Ninety percent of the complaints the agency gets are about different prices being offered to different licensees. The agency a few year back went away from having them report to the prices. Then they went to informally reporting to the agency's manufacturer coordinator. What this does is have them report again to some level, so the staff would have in their hand what they should expect them to be selling for when they walk out to do an inspection.

Commissioner Forrest asked if it is a present or potential evil that is being addressed. **Mr. Bishop** said that in his opinion it was a potential evil. He said that, as it had been said earlier, prices should be typically set by the marketplace. However, this is a regulated activity and there is a chance for influence between various groups. Mr. Bishop said he had researched why these rules were put in place. He read the minutes of the first three or

four meetings when they had the whole package. He found nothing on the intent – not a single word. He said they could only assume that it had to do with preventing or restricting influence.

Director Miller said there are a lot of issues in this package. One is a credit and to bring that back to reality and back in control. There is some disparity out there. The gift issue is certainly a part of this package that is being addressed. The pricing issue is really not changing. They still have to sell at the same price and terms for all but non-discriminatory discounts are allowed. The real policy call that he thinks is important for the Commission to consider ultimately is the issue of pricing. About four or five years ago, they had a huge debate and the staff recommended that the Commission do away with the price restriction, that the distributors should go out and market the best way they can. Some of the distributors wanted it, but it was split. Some of them were willing to go out and compete because they thought their service was better than their competitors and they thought they could get the customers because of the way they carried on their business. Others did not want to and they said service did not matter, only price. The staff had a good debate but the Commission wanted to keep the price the same for all per distributor. They set their own price. He said the he, Ben and the staff have talked many times and there are mixed feelings about it. He said they sometimes thought they should just do away with it. However, in 1997, no one is going to go out and control the market anymore with 2,500 licensees. No one distributor has the power to do that.

Chairman Ludwig asked Mr. Bishop if the reason for the rule change -- to codify or to put into rule form current policies – was accurate. **Mr. Bishop** said yes, it was to a large degree, however, they have general requirement and he thinks he may have put into the packet the words, “no licensee shall offer or receive from,” and it goes through a long list of various items and there is no flexibility at all. Then, when they get down to non-discriminatory discounts, the price and terms the same. They had nothing codified that said what types of discounts are non-discriminatory and so the staff has attempted to do that through talking to the various people in the industry by saying if the discount is based on size, quantity, that is non-discriminatory. If it happens to be based on someone living in Moxee, Washington, it might be discriminatory.

Chairman Ludwig asked if the agency has policies in effect. **Mr. Bishop** said, yes, there were policies. He explained that distributors ask for their opinion on some cost requests. Typically, the staff then goes through an analysis and gives their opinion. Once they respond to the question, the staff then mail that interpretation to all distributors. **Chairman Ludwig** said he thought that putting into rule form something that has been enforced as a matter of policy is justification enough for adopting the rule unless the Commission decided it is not needed. He wanted to continue going through the items from 5(b) to 5(e) and (f) before they open the discussion to the public. He asked if there were any further discussion from the Commission in reference to Item #5(b). Hearing none, he moved on to Item #5(c) sale of gambling devices, equipment supplies, paraphernalia, and related services – credit prohibited – exceptions.

Director Miller said the comments just made are relevant to the entire package. He said that Mr. Bishop had a meeting with distributors and manufacturers on Wednesday and only 10 people showed up, which is the smallest group that has ever shown up for a meeting. He said this may be because they are getting closer to getting everyone in agreement.

Commissioner Herbold referred to the statute that is referenced in Item #5(c) in IC2 on the first page, there is a bifurcation of allowing 60 days for products or sales made between the effective date of the section, if enacted, and October 1, 1998, and then it drops down to 30 days. She wondered if that was just to give people a break to adjust to the new rule, or was there any reason why it could not 30 days from the effective date. **Mr. Bishop** said it was an attempt to mitigate putting it in and to give time to work it in. In the meeting on Wednesday, the written comments received asked for 60 days. The other consistent written comment was that they wanted until the first of the year to get themselves together. They presented a staff proposal that would begin the 60 day period on January 1, 1998, and keep it consistent. There were no negative responses to that, so that is the way it will be in the rule that staff will present next month.

Commissioner Herbold asked if this section would change and **Mr. Bishop** said yes, that was correct. **Commissioner Herbold** went on to her other question on page 5 of the same section and said she was concerned with the concept of a promissory note to deal with the outstanding debt where specific times are mentioned – not to exceed a 60-month term and minimum monthly payments. She said there were different

amounts of debt that was outstanding to different people. Some owed a couple thousand dollars while others owed over a million dollars. Since the term can be up to 60 months, she thought that seemed a little long for somebody who has a couple of thousand dollars outstanding compared to the one owing a million dollars. She wondered if there was any reason why staff could not come up with a formula that would require them to pay down that debt in amounts such as a quarter of a million dollars per year and then a balloon at the end, something that will take into account that some people are out there with huge debts that they need to deal with a little bit longer time, but others that do not need five years to pay off a couple of thousand dollars.

Mr. Bishop said the staff had considered that. He said they started out with a 24-month period. But after receiving written comments, this was another consistent area of complaint regarding those that pay their bills currently, in that allowing someone to have 60 months – their competitor – was upsetting to them. He said there were probably only two distributors that would not be able to catch up in a period of less than five years, so they would be forcing them, through regulation, into bankruptcy if they did. That was one reason for having the 60 months versus 24 or 36.

Mr. Bishop said they also discussed the other issue of fairness versus equal. What staff tried to do was to make it so everyone had equal opportunity. It may not be fair, so if someone is very small and only owed \$20,000, it might be just as much of a burden for them to pay it off in five years or two years as it would be for someone that owes two million. Rather than getting into a formula, they decided to go for equal. He said this got them back, to some degree, to the manufacturers that have caused this problem. The distributors ask for credit and he said he would be asking for credit if he were a distributor. The manufacturers wanting to buy market share have granted it, so getting back to being equal, if they themselves let someone get out beyond their capabilities, why should they not also offer those people below that level the same opportunity. That is why they made the decision to require manufacturers that choose to give promissory notes to treat everyone equally. If they give promissory notes to those that owe a million dollars and pay over a long term, they must do the same for those that owe small amounts at the same term length and the same interest rate.

Commissioner McLaughlin asked if this would be they would have to carry cash around. **Mr. Bishop** said this would just be to implement part of the cash basis, it would not mean they must carry cash around. Cash means checks or traveler's checks or anything that is a cash equivalent. To circumvent credit, they pass a bad check. There are problems currently with operators who must pay cash when they receive credit. There is no credit between distributors and operators. There are operators who pay with a check and they always use the float, which is just another way of doing credit. A rule was created some time ago that said the check could be used as cash, but it must be deposited within so many days and it cannot be held like a note. It can then be re-deposited. In the current rule, that just ends, there is no end to it. There are instances where it would be the same thing as having a promissory note because receiving a bad check and having to re-deposit it after some time of holding it results in credit. In this rule, the staff added the requirement that after a re-deposit or reasonable amount of time, it must be taken back to the person that presented it and they must present payment to cover it or it will be deemed to be credit.

Chairman Ludwig called for public comments on these rules and reminded the audience that this is not the final opportunity for comments. There will be one more opportunity to discuss or comment at the September meeting in SeaTac. No one came forward with comments. He said the matter was continued to the September agenda.

PULL TAB RULE

Amendatory Section WAC 230-30-045 – Pull tab series with carry-over jackpots—Definitions--Requirement

Ms. Tellefson said this item is up for further discussion today. It sets forth the operating requirements and regulations for carry-over jackpot pull tabs, which are the pull tabs where jackpots accumulate during the game and then if they are not won, they are carried over to the next series. There were some changes from last month's version and they are continuing to try to refine the rule. One of the changes is that the contribution amount for each series is not included in the 60 percent minimum required prize pay out and the odds were changed from one in five to one in ten. What that means is that the prize will probably not be won as early as it could have been, but it will also generate more interest in that particular game, so it should be a better game for the player. Staff recommends further discussion

Mr. Bishop pointed out that Wes Fultz of Bonanza Press submitted an example of carry-over jackpots that is in the packet.

Chairman Ludwig called for public comment. No one came forward.

Commissioner Herbold referring to the impact statement that estimated a high of 1,566 additional staff hours would be required, she wanted to know how many locations or places they anticipated would go into the carry-over that would result in that 1,566 hours. **Ms. Winslow** said that there are about 2,000-2,500 licensees and they would not expect all of the licensees to put in the carry-over games, but they received quite a response during the study session discussions. She said that about 10-20 percent of them will try this out at the beginning. It really depends on the response from the players.

Commissioner Herbold asked if this is staff's initial input and if more try it, then would there be more time involved later on and would this require a new person or is just existing staff. **Ms. Winslow** said that it would be with existing staff. She said it was just to give the commissioners an idea of the staffing hours that they expect based on limited knowledge.

Commissioner McLaughlin said this seems like an opportunity for the operator to gamble rather than just the player. She wondered if it might happen that a player would go all the way through this very quickly and so they have to go to the next one and they have not even put in \$150 into this. **Ms. Winslow** referred to the sample in the packet and said she thought the player could win the jackpot in the first game. **Commissioner McLaughlin** said she did not mean that, she meant that the player had played it and had reached the "sorry," did not win, point without putting \$150 into this game. She said the same thing could happen to the next player and so on and it could ultimately cost the operator a lot of money to play this game and not win a thing. **Ms. Winslow** said that, statistically, the operator wins off of each game. They win more actually as the game goes on. They are going to win off of the first game and they are going to win off of the next game, but once the jackpot goes, the average pay out, according to Wes Fultz's statistics, over a period of time, be around 60-65 percent when the jackpot goes. She said it was very consistent with what the other games have been set up to play. It just carries over during a longer period of time and it is a new way of playing the game.

Commissioner McLaughlin said that answered her question, but she still was not sure it would work out the way it is predicted it will. **Director Miller** said they did not know what kind of market the games will have. When the prize goes up to \$1,000-\$1,500, there might be a good interest in it, but it was too early to tell.

Mr. Bishop said this was also an attempt to let the normal small operator have an interesting game like they had with the machine progressive games – that they were allowed up to \$5,000 and it went up for every ticket they bought that the prize went up. This was an attempt to allow someone to do it without making the investment into a machine. They could build on an average. This would be a \$1,500 average prize for the top level. He said he can see it really being of interest. They have what they call instant winners. Those are 60 percent so they could go through it if they played the whole set out and someone got up and they got "sorry," it still would have paid out 60 percent and the operator has what they call player money, which is another \$150 that he must take and carry over to the next game. If the player money is included, the pay out of 65 percent is actually to the operator, the player has only really won 60 percent and the other 5 percent is going toward the next game. The next game starts with \$300 at the top size. If they get to "sorry" again, it would go to \$450. At this point, player interest would grow because \$450 on a game that is paying 60 percent without that would now be up to 75 percent and by the time it went to \$600, they would get 80 percent. That is what the operators think will happen, that it will stimulate sales without a lot of risk on their part.

Commissioner Forrest wanted to know if "operating day" meant any day a business was open at all. **Ms. Winslow** said she thought that was correct. She said during discussions at study sessions, there were concerns about the charitable market, they were not open every day, they were limited to three days a week at a bingo game and they were concerned that if it were seven days, they may not be open, so they wanted to have an equal opportunity.

Chairman Ludwig asked if anyone cared to comment. No one came forward.

BINGO RULES

Amendatory Section WAC 230-20-192 – Standards for disposable bingo cards—Definitions
Amendatory Section WAC 230-20-240 – Bingo Equipment to be used

Ms. Tellefson said these two rules are up for further discussion today as well. They are housekeeping rules having to do with keno bingo and are exceptions to the requirements regarding the use of preprinted numbered cards and preprinted bingo cards. Since these were player selection games where the players pick their own numbers it simply stated that those requirements did not apply to keno bingo. Staff recommends further discussion.

Chairman Ludwig asked to have keno bingo explained to him. **Ms. Tellefson** said keno bingo is a player selection game where players take a card and put the numbers on it themselves. The agency has other restrictions and requirements regarding preprinted bingo cards that they have series numbers and are sequentially numbered for record keeping purposes. She said this just allows the keno bingo type of game to be exempted from those preprinted numbered requirements.

Chairman Ludwig asked if there was any public comment on this. There was none.

PETITION TO AMEND CARD ROOM RULES

Recreational Gaming Association

Chairman Ludwig said this is up for possible filing and discussion. **Ms. Tellefson** said the industry planned to withdraw the petition in light of the fact that staff has come forward with their own set of rules.

Bob Tull, attorney for the Recreational Gaming Association (RGA), said they had submitted in late May for consideration at the June meeting a proposed rule that would implement Senate Substitute Bill 6430, which was adopted by the 1997 Legislature. They were asked by Director Miller at that time to consider postponing consideration of their proposal in order to allow the staff to continue its already on-going work in preparing the set of rules. They did so with the informal understanding that they would try to get those rules before the Commission as soon as possible. That is the package that would be before the Commission at today's meeting. With that in process, the RGA's petition is no longer necessary and they withdrew their request.

Commissioner Forrest said he had a question regarding the internal security rules. He wondered if Mr. Tull had any qualms about the fact that they were confidential and not available for public inspection insofar as the freedom of information demands and so forth. **Mr. Tull** said that, if his recollection was correct, there were circumstances where the need for law enforcement sensitivity could be invoked. He thought that it was something that had been an issue and a problem in some aspects of the compact casinos trying to make sure that information that was very sensitive be kept separate.

Commissioner Forrest said he understood the sensitiveness, but he was thinking about developing a rule to find a structure to put it in the strongest position to resist such a demand. Otherwise, somebody that wanted to beat the system, the first thing they would do would be to ask for the rules. It would be like planning a bank robbery and asking the bank to send them their operating hours and where their cameras were located. It seemed to him to be a thoroughly legitimate need, but sometimes it is a little hard with issues like public disclosure. He concluded that the rule gave its own justification. **Mr. Tull** said he agreed with that and thought that initiative that the Commission took about a year ago to use a test approach, which was now being advanced by the staff proposal, let those issues be addressed by putting them in focus. Then the rule-making process could only go so far as addressing those public disclosure matters, but he thought it would set the stage for whatever the Commission decided was the appropriate level of proprietary security. He said there were some other regulatory circumstances where proprietary information could be kept secure. This would not be in the same nature, but it was of an even more lofty purpose, which is to prevent crimes. He said he had not been focusing on that but he would give it some special attention.

GAMBLING SERVICES SUPPLIER RULES

New Section WAC 230-02-205 – Gambling services supplier defined
New Section WAC 230-02-206 – Gambling services supplier representative defined

New Section WAC 230-04-119 – Licensing of gambling services suppliers
 Amendatory Section WAC 230-04-124 – Licensing of manufacturers, and distributors and gambling services supplier representatives
 Amendatory Section WAC 230-04-125 – Distributor or gambling supplier representative license may be reissued when changing distributors or gambling services suppliers
 Amendatory Section WAC 230-08-025 – Accounting records to be maintained by distributors, manufacturers and gambling services suppliers
 New Section – WAC 230-12-223 – Prohibited practices—Lease and compensation
 Amendatory Section WAC 230-12-225 – Repair or services not to be conditioned upon exclusive supply arrangement
 Amendatory Section WAC 230-12-300 – Resident agent to be appointed by foreign manufacturers, distributors, gambling services suppliers, and commercial amusement game operators
 New Section WAC 230-12-405 – Interest in separate business at different marketing level prohibited
 Repealed Section WAC 230-12-220 – Agreement requiring payment by licensee based upon percentage of receipts from authorized activity-Prohibited
 Repealed Section WAC 230-30-220 – Interest in separate business involving punchboards and pull tabs at a different marketing level prohibited

Ms. Tellefson said this item includes ten newer amended rules and two to be repealed. She gave some background on the package and why it was coming forward. She said the majority of these rules had to do with aspects of licensing and licensing a group that the staff calls gambling service suppliers, which are entities that provided services to gambling operators such as counting, record keeping or bookkeeping, and consulting, for example. There had never been a provision in the law to allow licensing of these people and yet many of them play quite a great role in the gambling activity. She said Assistant Director Cass-Healy worked on this for a number of months and this package was the result of her efforts. Most of the rules in the packet had to do with licensing. They also would ask that one of the rules (Item #9J which pertains to interest in separate businesses at different marketing level prohibited) be deleted from the package. She said staff had discussed and debated the basis for this rule. It was an historical provision; it was in the pull tab section of the rules manual and it had been moved to a general section. They had policy discussions over whether it was still necessary or whether perhaps a modified version of this was necessary that, for instance, would just prohibit distributors and operators from having an interest in those two businesses. The Commission may see another proposal coming forward at another time, but at this time they would like this proposal withdrawn.

Commissioner Forrest referred to the introductory section and said it was a very sweeping statement the way it was phrased. He asked if it would include the CPAs and other professional services. **Ms. Winslow** said that was intentionally somewhat broad because the agency had never licensed these activities before. They were not quite sure of the nature of those services, but what they had in mind for example, would be like the Porters, who provided consulting services for pull tabs. They work directly with the licensees in setting up those services helping them to understand the games. Those were the types of services they had in mind there, not legal or CPAs or those types. **Commissioner Forrest** said there should be an exemption in there that this does not purport to apply to normal legal advice or normal accounting advice.

Chairman Ludwig said that if they followed the staff recommendation and filed these for further discussion, they have the next 90 days to make those kind of amendments and adjustments.

Ms. Tellefson said there is a change to 9 G that is a policy change, so she wanted to bring it up before it was filed. She said this rule had to do generally with contracts or leases that perhaps would be based on, in part, at least a percentage of gambling profits. Section two of the rule talks about a prohibition on entering into such contracts for commercial operators for pull tabs only. And after looking at it, the staff is asking that the Commission delete that as it applies to commercial operators. There was more probably a public policy basis for having that prohibition apply to charitable or non profit organizations because of the idea that the money must go to the charitable or non profit program and it cannot inure to the benefit of any individuals. However, with respect to commercial operators, it did not necessarily make sense that the staff would want to get involved in that part of their business. At this time, the staff is asking that section two be deleted from that rule. They had had some comments from the industry on that and that was why she wanted to note this for the record.

Chairman Ludwig said if they choose to file it as recommended, it would just be filed with section two deleted.

Commissioner Herbold asked if the staff is requesting that the entire section be deleted or just the commercial.

Ms. Tellefson said the whole section should be deleted because the charitable or non profit was covered in section three.

Chairman Ludwig said it is his understanding that item 9 E was going to be withdrawn. **Ms. Tellefson** said no, this rule was part of the distributor-manufacturer credit package. It was moved to this section for procedural purposes, but they needed to reference gambling service suppliers in this rule as well. Since it was already on the agenda in another spot, they elected to move it into this package which effectively meant it would be held over one more month.

Chairman Ludwig asked if any changes were going to be proposed to this particular rule as written.

Ms. Tellefson said not at this time.

Commissioner Herbold asked if the Commission was going through this exercise because there had been some activities by these gambling services suppliers and their representatives that needed regulation that are not the way they should be. Or, was it because the staff's activities with respect to these people were costly in terms of time and effort and they needed to be licensed so that fees could be collected to offset the efforts of the staff. Or was it both. **Director Miller** said it was for both and all three. He said this was a new area that they had really been involved in for the last few years. The agency had always tried to regulate the industry fully, but not to over-regulate it. That has been the agency's philosophy. Now they have a new area developing for dead game services, which are provided by people who control all the games and are in charge of the pull tabs when they are not in play. They are not required to be licensed, so the agency has no hook there. These people are consultants; they can get a some of the profits based on a lack of ownership but still get a percentage of the profits based on how well they perform through their contractual agreement. He thought they should be licensed as well. The intent was to make sure everybody profiting from this industry is qualified for licensing. The agency knows who they are; they can have some standards on them; otherwise there is a real hole in the regulation. The time is right. Four years ago this industry did not exist but now it is growing more and more. He thinks with the card room industry, there would be more of a potential for this and that was why he thought it was imperative that it should be passed today.

Commissioner Herbold said in item 9 E where the gambling service supplier is being inserted into that statute, in item 1, there is the insertion, and then indicates that these people represent the distributor. She thought or gambling services supplier should be added. **Ms. Tellefson** said she has noted that and there are some typos in the rule.

Chairman Ludwig said the action, if any, today would be to decide whether or not to file it and then it would be continued for full discussion at the next two meetings after there was plenty of time for it to be reviewed and considered. He asked about the potential financial impacts to these particular licensees because it is something they have not been burdened with before and he understands that the outline says that is being studied. He wondered if the Commission will know more about that by next meeting. **Ms. Tellefson** said she thought it was the agency impact that was being studied at this time.

Chairman Ludwig asked if they would know -- other than the fees that were being proposed -- of any other monetary impacts there would be on those licensees. He wondered if they would have any idea of what kind of financial burden that would place on them. **Mr. Bishop** said some basic costs would be involved because of the record keeping and reporting.

Commissioner Heavey moved to file items 9 A-L with the exception of J, and with the suggested changes recommended by staff; **Commissioner Forrest** seconded the motion. **Commissioner Heavey** rephrased the motion as being moved and seconded that they file the proposed items 9A-L except for 9J and with the deletion of paragraph two in 9G. *Vote taken, motion carried with five aye votes.* He said this would now be on next month's agenda and the following one for discussion at that time and they hoped that those that might be affected by this rule would have a chance to consider it and comment before the Commission took action.

He called for a ten-minute recess because lengthy discussion is expected for the next topic.

RECESS

Meeting resumed.

Chairman Ludwig said this group of rules follows legislative action last session making lawful house banked card games in card rooms. This rule is in response to that legislation. He said Director Miller has been working diligently on these proposed rules since the end of the session and he called for his briefing on it.

HOUSE BANKED CARD GAMES

Amendatory Section WAC 230-04-110 – Licensing of manufacturers

Amendatory Section WAC 230-04-120 – Licensing of distributors

Amendatory Section WAC 230-04-204 – Fees-Individuals

New Section WAC 230-40-900 – Public Card Room Enhancement Program Pilot study and test

Repealed Section WAC 230-40-999 – Public Card Room Enhancement Program Pilot study and test

Director Miller said this was the packet that they had said they wanted to get before the Commission to implement the most recent change in state policy, which was to allow house banked card games in commercial settings. The petition that was withdrawn today was filed four months ago and the staff met with the petitioners at that time and told them that they would not support their petition but they wanted to develop a thorough program before they went forward to the Commission. He told the petitioners that if they would hold off their petition for another four months, the staff would work hard to present a program to the Commission in August for emergency adoption of the packet, knowing that it would be in the Commission's discretion whether to do so or not. He said that, from a policy standpoint, he thought that this was one of the biggest issues the Commission would face in the near future. The staff chose the test format because they did not know what the market would be or if there is one. He thought there would be some areas that would have market potential – mostly urban, highly populated centers. The staff does not know what the impacts will be to the staff or how many licensees will come in. This has never happened anywhere in the country. He's not aware of even one jurisdiction that has limited banked games of this nature without slot machines going with them or some type of video activity, so it is a major program that they will be undertaking. Regulation must be done very carefully and cautiously. He thought this test proposal gave them the flexibility to do it correctly.

Director Miller recalled for the commissioners that in 1996 when the Legislature passed the card room bill law for 15 tables allowing the rake, allowing for the jackpot games, the agency tried a new approach to regulation. He said they did not really know what they were doing when they first started and did not know what the impact would be. They decided to try a test approach and entered into a contract with each individual licensee that sets forth the terms and the rules for carrying out this program. The director has the ability over time to modify that contract to make it work for those licensees so they can learn to develop a program and come before the Commission at the end of a two-year period. That way they could develop a good set of rules and not something they would have to come back and change every three to four months. That was what the intentions were -- to develop a test program, a pilot study program which would be consistent with regulatory reform. The Legislature wants these types of packages because it allows the agency to get an operation up and running. It also allows the agency to adjust and be flexible and in the end develop a program that allows them to regulate effectively to allow profit but still allow strict control. That was the balancing act.

Director Miller said there were also 12 tribal casinos in Western Washington who ran banked card games, who negotiated compacts, who in those compacts had Appendix A's, who were very, very strict in their regulation and control. He said the agency had an obligation to maintain consistency in this program with that program. Anything less would certainly undermine their ability to continue that relationship there and there must be consistency. Whether they can do a two-table operation or not, he could not guarantee at this time, but the agency had to give them an opportunity and he thought proportionately the director had the authority under this package to adjust accordingly, certain requirements. He said the Commission had before it today four rules -- the pilot study and three other rules that needed to be adopted to allow for suppliers of gaming equipment to be licensed in card rooms, just as they did in tribal arenas. He said there could be no difference here. The pilot study rule basically said that if anyone gets involved in house banked games or any of the activities authorized by the Legislature in the last two years, they must be a member of this test. They must go through the test that requires them then to enter into an operations agreement with the Commission. He said the Commissioners had before them Appendix C in draft form as version number four of the operations agreement which he was not asking that they approve today. That operations agreement was the contract – it set forth what will be done, what the price to participate will be, and the terms and conditions of participation. It sets forth what must be done when they have bank card games: the rules, the internal controls, surveillance, the cashier's cage, the security

departments, the account department or functions – everything is set there except the internal controls which have to be submitted to the agency in advance prior to opening. **Director Miller** thought Commissioner Forrest's concern they may even want put in that contract some provision at least giving some proprietary control on the internal controls. There is no need to give those out to anybody outside the agency.

Director Miller said that is the agreement they would enter into if the Commission chose to adopt the rules today. What it says is that the Commission approved the pilot study to go forward, get the agreements ready and then the staff would come before them with each contract individually. He said there would be no rush of people opening tomorrow because this was set up very systematically. The rule the staff is asking to be filed for the pilot study requires that they be licensed (some card room operators are already licensed) so they can come in tomorrow and start negotiating their agreement with the agency. Once their agreement is signed, they must then get a pre-operations inspection by the staff, who are right now putting together their unit. Some of Sharon Tolton's people in Special Operations will work with Sherri Winslow's people in Field Operations on a short term basis, because they already have some experience in tribal gaming. Once the staff goes through a pre-operations inspection, they will require their surveillance and accounting system and employees be in place, just like the tribes had to do prior to opening. The staff, however, added an additional step. They are also going to require Commission staff to come before the commissioners individually with agreements and the sign-off that they have complied with everything. Each area must be approved. This allows the staff to systematically put people in this program and not have an overwhelming floodgate. He said the staff is not ready to handle an overwhelming number. He said they have had approximately 41 people express interest; out of that it would be hard to say if more than half would actually enter the test because it is not cheap to get in. There will be surveillance required for every banked game in the state. Anything less than that would destroy the program. They cannot allow a tremendous difference in regulation from the tribal operations. They could have proportional differences based on the size. They must have surveillance as one of their main tools. Tribal casinos have tribal gaming commission staff on site at all times. The agency does not have the luxury to have Joe's operator having their own casino but they must establish a system of regulation, as well, so this would be something they will be working on. They will be monitored closely because surveillance is critical. All of this would be part of this contract and all of this would be worked out over time.

Director Miller said there are two levels. Level one would be up to four tables of blackjack. Level one, phase one, is a \$3 wager and is the low end. There still must be surveillance and they must still follow this appendix, but they have the ability to come to the Director and adjust it accordingly. That will be up to the staff and the Director and ultimately the Commission to say how far to adjust. Level one, phase two, would be up to a \$5 maximum for the smaller operator who just wanted to try it. Four tables of blackjack, if full, at \$5 per wager with even one shift a day would be a tremendous volume of money going through a place. Figuring 30 to 40 hands an hour, if not more in a qualified situation, would be millions of dollars going through. This will require great regulation. Level two operators come in with five or more tables and they can go up to \$25 wagers, the same as they have today. Level two, phase two, allows up to a \$100 wager. To get to phase two, they must have performed for six months; they must have also demonstrated that they have an adequate regulatory system in place, which is very similar to what the tribes are required to do. It must actually work and the staff must feel confident because, at that kind of wagering level, the amount of money that would be on the premises would require great security and precaution. They have never done that before and they need to make sure they are ready for that. The ultimate level of wagering is one that the Commission may set. If the commissioners thought that \$100 was too high, it would be up to them to adjust that and it is in the contract as well. Ultimately, level two would be what they would deem it should be. The staff met with the operators on numerous occasions and they wanted the same limits as the tribes had, but the staff did not believe they were ready. The operators should be required to prove that they could get these things up to the regulatory level that would give the staff confidence that whatever wagers the Commission deemed appropriate could be handled.

Director Miller said the test would be for a two-year period and could be extended. The cost would not be cheap, and operators have to put in surveillance, security, and certain supervisory employees. For a six to eight table room, it could easily cost \$60,000 to \$70,000 just to get in the door. For a three to four table it might be substantially less, but still a lot of money, and a lot of risk. The people that wanted to get involved in this were taking a risk because staff did not know what the market will be, although they had been working diligently with the licensees on this issue. They had received draft four of the contract appendix, which is not up for filing today. The pilot study rule that gives the go ahead is before the Commission now, a two-year plan that would allow them

to enter into agreements with the Commission. If that were filed today as an emergency, the staff could go forward, then finish the contracts.

Director Miller said there were two other rules in the packet that have to do with suppliers and other things. The staff requests that those be filed as an emergency as well. If approved, the Commission will see them on the agenda for three more months of comment, so there was no problem there. He said he believes there were grounds to do this based on the implementation of a statute. He would defer to their assistant attorney general on that issue. He called for questions.

Chairman Ludwig wondered how the level two, phase two, \$100 maximum bet compared to the maximum wager in casinos operating under Phase 2 compact provisions. **Director Miller** said the maximum for tribal operations is \$500. **Chairman Ludwig** wanted to know if the test period or pilot project was for two years, or maybe longer. **Director Miller** said maybe longer; it's at the Commission's discretion. **Chairman Ludwig** wanted to know if everything went well and the Commission was satisfied after one year or 18 months, could they move faster to adopt permanent rules. **Director Miller** said absolutely. He said he thought they would have a lot of control and flexibility with this packet. The real challenge is in determining what the market will be. He thought the 18 months not only allowed them to develop the staff's regulatory program, which they already have in another arena, but it would allow them to develop this program with this type of an activity. It has never been done before and whether it will work, given the competition, he did not know.

Senator Prentice said this law was passed in April, but there is no guarantee that this will be successful expansion for them. What she was thinking was it could also be a bust. They are going to have to invest in additional space, materials, more employees, more training, and then she assumed they would have to expand their security beyond what they are doing now. So she said it would be the filing that was the emergency for them to get started now. **Director Miller** said it was just to authorize the ability to go forward and to develop the contracts. He thought that, realistically, the first contracts that would come before the Commission, if they passed it today, maybe one or two would be ready to come before the Commission in October. He did not think it would be possible to get one by September. **Senator Prentice** said what she wanted to be sure of was that they would not be opening the floodgates as a result of today's meeting. **Director Miller** said no, absolutely not. He said it would be a very systematic approach to implementation.

Senator Schow said the intent of the legislation that was passed in the last legislative session was to have an opportunity to see if this would make a level playing field for the gaming industry in the state of Washington and he thought they could discuss all day what might or might not be a problem. He said the staff has done a great job of looking at all of the potential things and has a package before the Commission that needs to go forward. The only way they would be able to make sure that they had all of the things in place to control this would be to let this pilot program go forward. He said he thought this package was acceptable to get them started and then there would probably be some changes along the way. He urged passage to get the pilot program on its way.

Commissioner McLaughlin asked how many were in the test they started in 1996. **Mr. Winslow** said there were approximately 23 or 24. **Commissioner McLaughlin** asked if she saw people other than the people that are in that test coming into this one. **Ms. Winslow** and **Director Miller** said yes.

Director Miller said he saw additional people -- restaurants, for example -- that did not have gambling but because they have a good location might want to be included. But the risk was still there as Senator Prentice pointed out, it was like some of the tribes that have opened up casinos that do not have a market. The risk is there for anyone getting into this activity.

Commissioner Herbold asked about the time frame and said, in light of the fact that this time frame can be moved forward or backward, she suggested adding a provision where it says formal implementation by January 1, 1999, or such earlier or later date as may be determined by the Commission. **Director Miller** thought that was an excellent suggestion. **Commissioner Herbold's** second question was in reference to number two, the last sentence, "if the terms and conditions of the agreement conflict with existing Gambling Commission rules, the agreement will supercede for the duration of the study." She asked for an example to help her understand what this meant. **Director Miller** said wagering limits are an example. The current rules limit wagers to \$5 maximum,

but the test would allow them to go to \$25. So they adopt that through the test program. That way, the staff won't have to change every rule just for the test.

Chairman Ludwig reminded the audience that he is still missing sign up sheet number one and that he only had sheets numbered two and three. He opened the discussion to the public.

Don Bush, General Manager of the Upper Skagit Casino, said they employ 750 people for their casino, and are the largest employer of Skagit County by a factor of about three. Of those 750, about 10 percent are Native Americans. About a million dollars a month goes to payroll, all of which goes into the economy, Indian and non-Indian alike. He said there has been a misperception on the part of some people that Indians spend their money differently than non-Indians. He thought it was time people realized Indians buy food, cars and clothes just like everyone else. It all goes back into the economy as well as the other million dollars a month they spend on goods and services, primarily in Skagit County. His company, Harrah's, and the Tribe and this facility have about a \$25 million investment, which in today's environment some might wonder why they did that. It was for a number of reasons. They, and a lot of other people, did not understand where British Columbia was going until a couple of months ago. They did that based on a compact that he quoted from, "the policy of the State is to allow limited and highly regulated casino gaming for non-profit organizations and to restrain persons from seeking profit from professional gambling activities." They know the Legislature can change the rules, but that was one of the rules that was in existence when they got into this business and invested \$25 million. He said they also overestimated the market, as many investors did, and he thought that when the referendum was up last November, there were a lot of quotes from people in Nevada who had studied the industry across the country that said they were surprised how limited the demand for gaming is in this state. They were not the only people who did that, but the \$25 million was spent and since he cannot "un-spend" it, he could only ask for some empathy.

Mr. Bush said he was here today to appeal to the Commission to look at the impact of where everyone is going. He said he thought the Commission was in a unique position to understand where the industry is, to understand what they are going through, and to help the public and the Legislature understand that as well. A casino license is not a license to print money. They see the audits of the 12 casinos that are going on at the moment and they know what dire shape a lot of them are in. Only about two or three are making reasonable money. There are a couple that are surviving and there are a great number that are on the brink of not surviving. That is not to say he checked pro or con the list and that is not to say they want to deny anyone else the right that already thought they were in the gaming business or in the card room business. He does not want to see their demise; he wants to see an industry where all can survive. He thought this Commission and the people they work with are in the best position in this state to say they understand that. The tribes do not have public credibility. The Legislature thinks the tribes are all fat and happy, but they are not. The Commission has the numbers and the knowledge to prove that and they have the credibility to deliver that message. He said this state needs to adopt a policy and a plan through its Legislature to have a viable gaming industry or to have no gaming industry if that is what they decide. But there needs to be somewhere to help them craft an industry here that everybody can survive in. He said the Director's comment yesterday was that the charities would be at the Legislature in January. He said yesterday that the three years for the Indians to keep quiet is up in January and they'll be back because they will be harmed. There is a pie at the moment that will not feed 12 casinos and they were about to make a whole lot more. If the pie will not feed 12, how will it feed 112? This is going to devastate Indian gaming and he thinks they need to understand that and to accept it. This is not one man's view and the Commission should look at the audits in front of them of what Indian gaming operations are doing today. This new plan is going to bankrupt a number of Indian Tribes in this state. It does no good for anyone.

Mr. Bush said the solution is electronic gaming. Even though this is a sensitive issue in this state, he said that is where the money is. There is very little money in table games. He said he hopes the restaurateurs and card room operators here understand that before it costs them their livelihood. To run 15 tables with the regulations necessary will be very, very expensive. He said most of them now are unable to do it with 40 or 50 tables. He wondered how it could be done with 15 unless the operator were in the perfect location. Electronic gaming has higher profit margins, it does not cost a lot to operate them, costs almost nothing to regulate them, and he thinks there is a way to craft something in this state that everybody benefits – Indians, charities, card rooms – and still a lot left over to do a lot of things that were talked about last year in terms of what this state might need, such as education, fish, water, or whatever. A slot player typically spends less, but the retention and profit is higher with slots for the operator.

Chairman Ludwig thanked him for his caution and advice.

Commissioner McLaughlin asked how he could talk about electronic gaming when he really meant slot machines. She said she knew of at least three or four initiatives that went to the public in the state of Washington that said the people did not want slots. **Mr. Bush** said he is not sure they want a casino on every corner either, but the Legislature has apparently decided that is the best thing for the state of Washington. All he is saying is, does the Legislature understand what they are doing? Have the people of the state spoken? The people want a casino on every corner. And do the people of the state of Washington understand that is about to bankrupt a number of the Indian Tribes here or do they care? Maybe they do not care. He said he is not saying it is a solution that will sell or that people want, or the Legislature will buy. He said he is asking if there is a solution. To him, someone who has been in the gaming business for awhile, that is the only viable solution if all these different constituencies are going to survive. Somebody will survive and then maybe in 1998, somebody will leap frog over what they did and in 1999 and the year 2000, they will see a different group of survivors and a different group of people go out of business. He said he knows that electronic gaming or slot machines or whatever, is a very sensitive issue. If there is a solution, that is what it is. Maybe no one wants to pursue that issue.

Bruce Johnson, Chairman, Squaxin Island Tribal Gaming Commission, said he thought he heard Director Miller say that he would like to have these emergency rules enacted, but he thinks that is wrong. At the very least the Commission should considering filing them, but not consider emergency enactment. He said his reason is integrity. He said there were some things left out of this rule package which speaks to the issue of integrity that incompatible functions must be removed from the operators so that integrity is not degraded. It has already held a very high standard in tribal gaming facilities and he believes that the integrity must be maintained by at least outside, full time gaming regulation by the Washington State Gambling Commission. He said the Commission should not allow these people to regulate themselves.

Greg Sexton, Chief Operating Officer for the Little Creek Casino for the Squaxin Island Tribe, said he would expand a little on what Don Bush was trying to indicate to the Commission. As the card rooms begin to absorb some of the market share, the tribal casinos believe that the only way they are going to be able to stay viable in this industry is if they can be if the market expands. He said there are maybe 20 percent of the people that currently go to gamble. Their concern is that if the integrity and the reputation is not maintained, that they will not be able to expand that market properly so that they all may stay in business, possibly, and what it puts forth to the Commission is that all the regulations and standards and licensing issues have to be applied to all operators regardless of the table limits or number of tables that are in play. It would not take anything for "Joe's Corner Bar," with four tables and what he would say was minimum standards, to blacken the eye of all gaming in this state if there is some sort of a skimming operation discovered or a cheating operation discovered there the general public is not going to view the tribal casinos as any more or less than any other casino. They will just think all casino's cheat. It will severely impact their ability to expand that market for them to stay in business. As everybody has already alluded to, tribes are geographically challenged. They are not in urban centers. They must draw from those urban centers. To expand their market and to do that, they clearly need to maintain their reputation and integrity intact; otherwise, as everyone has said here, they may as well begin to fold their doors up now. The market has got to expand and absorb slowly enough so that they can all expand.

Commissioner McLaughlin asked where Little Creek Casino was and was told it was between Shelton and Olympia.

Senator Prentice asked if he knew where their market was coming from or do they just make assumptions about where they are coming from. **Mr. Sexton** said they have a database that clearly delineates where people are coming from. Their market is not entirely tourist generated. Their market is completely local, which means they have "x" percentage coming out of Shelton, "x" percentage coming out of Olympia-Lacey-Tumwater, Chehalis, Grays Harbor, et cetera. It is not coming off of an I-5 corridor. He does not rely as much as the operators up north do on a Vancouver market or somebody coming into this market from, say, Portland. He said the market is new and capable of expanding. He would love to see a poll conducted even by the Gaming Commission as to what percentage of people participate in the gaming industry right now, what potential there is for growth, before allowing this market to expand sort of uncontrolled. He suggested that the Commission analyze what the potential of that market is and how many people should be allowed to play in this game before they create an

overbuilt situation where people have substantial investments and now they have a choice between bankruptcy or cheating to stay in business.

Senator Prentice said she thought what he was saying is that people will travel only so many miles to go to play. There is a limit as to how far people will go to gamble. **Mr. Sexton** said that was very true and reminded her once again that Squaxin Island's location is geographically challenged and that he does not have anything truly unique. All of them have table games, all situations are pretty much similar. **Senator Prentice** said she still had not found out what she wanted to know in order to reach a conclusion. She said she was trying to figure out if the card rooms were going to be looking at the same kind of market, then they are also going to have to deal with the same limitation that people will only travel so far. What she was trying to figure out was, say if they were to open up a place in Bremerton, it would not impact him because a lot of folks are not going to travel that far. **Mr. Sexton** said that what she said was correct – he would only say that for every card room that opens, there may be some expansion of the market, but it will also begin to steal from the existing market. He said he called it the “7-11 effect.” If someone lives 10 minutes away from even a lesser casino-type atmosphere, meaning they do not have the level of service the casino's may offer, a player will not drive 40 minutes or 45 minutes to get to it when all they want to spend is \$40. Or, they may only have an hour to go spend. They will take the 10 minutes to drive to the “7-11” and pick up a gallon of milk as opposed to driving to Safeway to do their grocery shopping. It will impact them because there is a finite number of dollars out there right now. As Don indicated, they sort of underestimated what that market would be here. People are very cautious in the state of Washington and they still view gaming in general as something that is not quite on a legitimate level. The 12 tribal casinos now operating have invested at least \$150 to \$200 million between them. That money is in jeopardy but that does not go without saying that these guys who are going to expand their card rooms are not probably going to have to invest at similar levels.

Senator Prentice said she and, she was sure, the other Commission members agree that it needs to be kept honest. What she was mulling over is that the Commission has its own mission, but the Legislature has another. She thought that one of things her colleagues and she frequently question is what is their goal as they continue work on legislation dealing with gambling. She does not know that it is their responsibility to be sure that anyone in the gambling industry really succeeds. They have tried to be as fair in their approach and certainly catch a lot of heat for any of their efforts. **Mr. Sexton** said he understood what she was saying, but he thought that the Commission also had the mission to educate because they had the best fundamental knowledge of the existing gaming operations, how they operate now, the market in the state, and how it currently exists. He said the Commission should educate the public and educate the potential operators that this is indeed the market and as that expands out there, that they ensure that the tribal casinos have the ability to compete.

Senator Prentice said he touched on a nerve as he talked about expansion because she knew that one of the underlying philosophies in the Legislature is that there would not be major expansion. The Legislature is going to be looking at where the state is now and where do they want to go in terms of the public safety. **Mr. Sexton** said he would challenge the idea of major expansion. If one looks at the number of table games that are currently in operation in the state of Washington and adds as many as 40 operators that can go up to a total of 15 games (this may be an extreme case), there will be an expansion of roughly 50 percent of the available 21 tables in the state of Washington. He wondered if the market would be able to absorb a 50 percent increase in the number of table games available. He said he could only speak to his situation, which was when Puyallup and Nisqually opened, what they have done to that market share. When he came in there were roughly 80 table games in that market; now there are approximately 160. He said that has somewhat devastated that market for the existing operators, meaning the Chehalis Tribe and at best it creates a marginal situation of operation for those. He said as expansion begins, those same marginal existences will be created for everyone. He said that he understood their mission was not to assure the tribe's viability; however, he wanted to point out something that Don had discussed and that was that the tribes entered into the compacts with the state with the idea that there was limited gaming and with the state's assurance that there was not going to be growth in profitable gaming. It was designed for non-profit organizations. So they made rather substantial investments. Those are now in jeopardy. There is no doubt that much of that threat is from external influences, meaning British Columbia or what Portland has done. Now they are being threatened from within their own borders. It does not take much scrutiny of the numbers right now to realize that most of the tribes are at best not going to make it.

Chairman Ludwig thanked him for his words of caution.

Michelle Hanson, Suquamish tribal attorney, said the Tribe entered into a compact with the state in January, 1995, opened its doors in December 31, 1995, and has been operating now for about a year and a half. Unlike other speakers, this tribe financed the casino by itself. The casino is between Bainbridge Island and Poulsbo; they opened in a tent much like the Kingdome tent and they have expended about \$3.9 million in just the facility alone, which is a large service of debt for the tribe. One commissioner stated that the reason for this law that the Commission is now rulemaking on is to level the playing field. Well, as the other speaker's have said, it is not really a leveling of the playing field because the card room dealers think they were in a different market before this, and now they are entering into the casino market. So, essentially it is not a limitation of gambling as has been proposed but it actually expands gambling to a great deal. And it will be up the Commission to make sure that the integrity of the game, the public trust that they are mandated to oversee is kept, just as it has when they have been dealing with Indian Tribes when they compacted with the state for their casinos.

Ms. Hanson said she had taken a look at the proposal that Frank Miller has made and it is pretty much similar to what the compacts have, from Appendix A of the tribal compacts. However, there are some major parts that are missing and while they may seem small and may seem different in terms of regulation, she thought that it was important that it be looked at. For instance, all compacted tribes in Washington are heavily regulated. In the first year of operation, for instance, the Suquamish Tribe paid \$120,000 to the state of Washington for the cost of the state to monitor the tribe. This covered the pre-opening review, the one year of regular monitoring, and the six-month review. This year the Tribe expects to pay about \$63,000. This is just for the state monitoring and is typical for all Indian Tribes. In addition, what is important is that the Commission and the regulators from their side stated that this is the minimum level of oversight that is needed from the state in order to maintain that public trust in order to keep that integrity of the game. Therefore, it is only right that the same level of independent oversight from the state Commission be done with the non-Indian casino operators. In addition, the compact requires the Tribe to maintain its own tribal gaming agency and the state regulators have said that if they did not maintain a certain level of regulation from the Tribe, the state would step in and at cost to the Tribe take over some of that regulatory action.

Ms. Hanson said that in 1996, the first year of operation, the Suquamish Tribe, in order to establish that gaming agency and operate, it spent \$900,000. This year it will spend \$450,000 to maintain its own tribal gaming agency. This level of cost exists because the compact, among other things, requires that a tribal gaming agent be on the premises 24 hours a day. Now the Commission and state regulators have stated that this is a minimum, again, to maintain the integrity of the game, to maintain the public trust, to make sure the cashier operations are fully protected. In such case, this same requirement should be made for the non-Indian casino operators. It is very expensive, but if they are going go with the Commission's mandate to meet the public trust, then they must require that same level of expenditure and that same level of coverage. The compact also requires full surveillance, full security staff. This is in addition to the regulation by the tribe. She said one of the other speakers will address this.

Ms. Hanson said that the other thing that is important is whether one card game table was being operated or 15. The level of security, the level of surveillance, the level of regulation does not change. The Suquamish Tribe spent \$3.9 million in building its gaming facility. The contractor was Frontier Construction and its subcontracts, the equipment and supply vendors for the casino, are non-Indians. The Tribe expects to put in a sewer line soon at a cost of \$500,000. It will tie into the county sewer line. That contractor is likely to be non-Indian. The Suquamish Tribe pays an annual amount of about \$2.6 million to its suppliers and for its utilities. These businesses are local Washington businesses and are non-Indian. It pays an annual amount of \$5.4 million in salaries, wages, and fringe benefits. Of the 265 people it employs, only 30 of them are tribal members. Another 45 are native Americans. It means that 190 of those employees are non Indians. They come from the local Kitsap area; they buy groceries just like everybody else from the non-Indian grocer; they pay their rents to non-Indian landlords and they buy their cars from their non-Indian car salesmen. Money is not a tribal enterprise – it goes out to the community and benefits the entire general community.

Ms. Hanson said that after paying the expenses, after servicing those loans, after paying the other debts and paying that 2 percent impact fee, the Indian Gaming Regulatory Act requires that all of the excess revenues go to the tribal government to fund governmental services, which is 100 percent taxation. In 1996, the amount that went to the tribal government after paying all of that was zero. In 1997, they expect that amount to be zero. She

said the tribal government has not itself been able to get a profit in order to subsidize the health services and the other human services, for instance, that it supplies to its own membership. But it has helped create some employment for 30 of its tribal members. If the state Legislature is mandating to the Commission that it make the Washington gaming industry a level playing field for all, then they must keep in mind that it has got to be a level playing field for everybody and they must assist not only the non-Indians, but also the Indian tribes in order to make that gaming industry work for everybody.

Commissioner Herbold said she did not recall the exact wording of the legislation, but she said she did not think it was a mandate to level the playing field. **Ms. Hanson** said she just heard a commissioner say that.

Commissioner Herbold said she thought it was a mandate to implement house bank card room rules. **Ms. Hanson** said that as she understand it, the purpose of it is to level the playing field between tribes and operators. **Commissioner Herbold** said that may have been the legislative intent, but the Commission does not have the option of saying no to the legislation at this point as she understood it. She wanted to know if Ms. Hanson and the others who were speaking so eloquently today talked to the Legislature when they were discussing this issue. **Ms. Hanson** said she thinks the newspaper may not have even reported that this legislation quietly sailed through the Legislature. Not very many people knew about it. So, no, for instance, the Suquamish Tribe did have an opportunity to speak. She said the tribes were facing it now at the regulatory end, saying, "Look, if the legislation exists, we have to work with it, but we have to make sure that it is equal in its operation and regulation by the Commission for everybody." The compact has put some very burdensome requirements on Indian Tribes in order to operate. And it is for the purpose of maintaining that public trust, maintaining the integrity of the games, keeping out organized crime – all of those things and, in fact, Ms. Hanson said it was her opinion that the Commission will find it is harder to regulate when these non-Indian casinos pop up all over the state and the state gaming agency comes to the tribes saying there are a limited number of people to monitor the tribes. The Commission needs to be well aware that it has to have the resources and the trained personnel available to monitor these non-Indian casinos as well. When she says there needs to be 24-hour monitoring from the outside, she is talking about state personnel being in these casinos and monitoring it to the same level that the Indian casinos are being monitored now. That is a huge cost, that is a cost the Suquamish Tribe bears right now, and that is a cost that the non-Indian operator must pay to the state so that the state can carry out that same kind of regulation.

Chairman Ludwig said that, due to dwindling time, he is forced reluctantly to ask the next few speakers to be as succinct and as brief as possible because there are still others that want to testify.

John Daniels, Jr., Chairman of the Muckleshoot Tribe, said he saw in the National Gaming Summary that the Washington mini casino rules were to be discussed. The Muckleshoot Tribe has done some focus groups in the City of Seattle and Auburn and the general consensus of the public was that they considered tribal casinos to be something like flying out of state to Reno because tribal casinos are in rural areas where one can drive off to the casino for recreational gaming and then drive back home. At that time, they did not like the idea of casinos in downtown Seattle. He said he wondered if the general public knew as much about this legislation as the tribes did and he really did not know about it when he was going to the Legislature, so that was one of the concerns that he had. He said he wanted to be brief and wondered if he could yield to another councilman who was on the Council while they are going through their negotiations. He said he had only been on the Council for three years and was not there when they went through the compact negotiations.

William Miller, Tribal Council member of the Muckleshoot Tribe, said that when they sat down to negotiate their compact with the state in order to get their compact, they had to abide by all kinds of rules and regulations. Like others had said, they are regulated all the time. The way it was being posed that it was going to open up now, he believes that the others should be required to "wear the same shoe." They should pay the same way the Indians pay; they should have to put in a surveillance in the same way, the general public should be notified about what is going on because there are many people who do not know what is going on. When they sat down they had to make all of the things come together so that they could satisfy the state, the neighbors in the Auburn area, Enumclaw and all the other areas that had public comment, who had a chance to ask them questions about what they were going to do, how they were going to regulate, and all the other questions that came about. Right now they do not have that chance to talk to all of these other places that are going to open up throughout the state. They should not be given any more breaks than the Indians were given. The Indians paid dearly and they still are. He agreed with some of the former speakers who said that Indian money is spent in the community and non-

Indians find work in the casinos and all of the dependent business that is required to keep them going. He said the negotiations were not for six months – it took years of negotiations.

Commissioner McLaughlin said she had a question that was important for her to know the answer to prior to voting. She asked, if the commissioners were to put this rule into emergency today, would the contracts that Director Miller had spoken of be the same as the tribal compacts. **Director Miller** said they are not exactly the same, but they parallel the appendix. **Commissioner McLaughlin** wanted to be assured that they are not changing what the state is doing by passing an emergency. **Director Miller** said the emergency only authorizes the test pilot study program, and the contracts come before the Commission independently at a later date. No one can begin operating until they have gone through a complete inspection, so then they have a final say on each individual contract.

Harry Chesnin, General Counsel for the Confederated Tribes of the Chehalis Reservation, said Chairman Mel Youchton apologized for not being able to attend this meeting today. He said they would submit a written letter as well. He wanted to make several points, the first being that when the Chehalis and other tribes negotiated the compacts, the statement is that the level of regulation is the minimum necessary according to the Gambling Commission to protect the public safety and welfare. The tribes hope and expect that the Commission, when it viewed that in one gaming context, will not change that in any other gaming context because the policy that they are supporting is one to protect the public. Just as they have done through their regulation, the concept of shortening up on regulations for four tables, they feel is inappropriate. If a tribe opened a single table in its casino facility, it would have been held to the minimum requirements of the Gambling Commission, as listed in Schedule A now, whether it is 1 or 15 or 23 tables.

Mr. Chesnin said his second concern was that the pilot project was really not a minimum pilot project. If they look at the pilot project, anyone can join the pilot project. There may be staff limitations on how quickly they can administer that program, but anyone is eligible to become a licensee and join the pilot project. They can have an unintended proliferation of many casinos under the pilot project. It would be far better for this Commission to allow its staff to study the impacts before a pilot project was implemented to study the effect upon the regulatory framework, to study the number of potential entrance into the market, to study the process and to know the results before it is too late to allow a pilot project where everyone who wished and had a restaurant or food and beverage operation could join and find out the hard way. To find out a way by adjusting. The Commission needs to know in order to meet those minimum standards for public safety and, in fact, as stated by Director Miller, it is unproven at this time, and it's better not to be precipitous and move to a pilot project than to know with some certainty what will happen, because there will be time for gaming and time for meeting the requirements of the Legislature. It is the responsibility of this Commission to protect the public.

Mr. Chesnin said another reason for a study before implementation is that the interrelationship between the Commission rules and the compacts, as alluded to by Director Miller, is very complex. One action, while seemingly not triggering a response, can in fact create a whole other set of regulatory issues between the tribes and the Commission. An example of that is the community contribution, which the state has told the tribes is not a tax. If there is no corresponding community contribution, with respect to impacts on a local level, it raises compact issues between the tribes and the Commission. It's better to know the impact of those kinds of issues or the lack of a community contribution requirement on a card room licensee before the Commission implements this. It's better to see and discuss with the tribes the interrelationship before there is a problem than to implement a pilot program that will create its own set of inconsistencies between the compacts and the regulation and thereby instantly create a new and expanding process. Lastly, in order to do this, the Commission should not take a trial and error approach. The Commission has full control of this process because that was granted to them and mandated to them by the Legislature.

Mr. Chesnin said he believes that the Legislature wanted to see the Commission implement a law but that the Legislature did not want a mini casino on every corner. He believes the Legislature did not want the influence of unscrupulous operators to enter the card room market. In order to avoid that, the Commission needed to be fully certain in the level of regulation and its staffing and its costs before it entered into that program. That would require further study rather than an emergency implementation. With further study, everyone would know what was being faced, what the market might be, and the number of potential applicants. Whereas with

implementation, what will happen is trial and error and this Commission in a very serious way would be facing the fallout rather than using a basically protective measure.

Mary Prevost, with a law firm representing the Muckleshoot Tribe, said her main concern is the process and the lack of notice. She asked where the public is today and if the public really understand this. She reiterated that the tribes are under a requirement during the negotiation for the compacts to hold two public meetings in the local area so that local officials could have input. Certainly, the State Gambling Commission has the authority to adopt emergency rules under certain circumstances, but she questioned whether this really meets the test under the law. It is a pretty strict test. As a matter of fact, the intent section of the 1995 revisions to the Administrative Procedure Act talks about members of the public that are affected by administrative rules must have the opportunity for a meaningful role in their development. The basis for agency action must be legitimate and clearly articulated. When an agency is authorized to adopt rules imposing obligations on the public, that it should do so reasonably. And that the adoption should be justified and reasonable. The concern that she raised was whether the public really had notice, or had they been made aware. She said that all the tribal operations are required to have problem gambling brochures, and the tribes have all worked with the problem gambling people, all of them give some contributions to the problem gambling people. She asked where are the problem gambling people? Why are they not concerned with the fact that there is a major expansion going on here of gaming? That was the basic issue she wanted the Commission to hear.

Chairman Ludwig said this was one of the best crowds they have had at a meeting other than the Quinault Compact hearing.

Senator Schow said he had a point about with regard to the public input. It was his understanding that, as each licensee comes forward and wants to implement house banked blackjack, they will be required to come before this Commission and ask for that permission and at that time that would be an opportunity for the public to comment on whether or not they want this particular licensee. **Ms. Prevost** said she had heard that too, that there will be the opportunity for comment when those people come back to this body. Her concern was that the State Gambling Commission has a lot of authority in implementing the legislation, but her question was whether this was a real emergency. Does it really have to be done immediately and has the public really had adequate notice of that? She said it appeared that there are notice provisions later; however, the rules before the Commission today for emergency adoption are not rules that she had seen before today and she did not know if the Commission had had these before today. She said she was questioning whether there had been any opportunity for comment and any reflection and study of the rules as they are being presented today for emergency adoption.

Chairman Ludwig asked if implementation of a statute a justification for emergency adoption. **Jonathan McCoy**, Assistant Attorney General for the Commission, said the implementation of the statute itself was not a basis for an emergency; however, the issue with regard to the emergency is protection of the public. It is up to the Commission to determine whether or not there is an emergent situation that would affect the public health and welfare. The issue here is what control the Commission has over the process of implementing the legislation. A new activity has been authorized by the Legislature and how the Commission goes about implementing that legislation does have an effect on the public health and welfare. He thought that there would be justification for enacting this particular piece because if it is balanced against the fact that there will be additional opportunities for comment on each particular application, in the implementation at that point, what this does is it sets a process in place that the Commission can then use to implement the legislation. Basically it comes down to whether or not the Commission believes that there is a sufficient public health and safety issue in having a process in place.

Chairman Ludwig said that if the Commission does not do anything today, there is no process in place and so there is no house banking.

Commissioner Heavey said if there is no house banking then there is no public interest to protect.

Director Miller said that was a debatable issue, but what they wanted today was the emergency filing of the rule or, in the alternative, filing. He said it is the Commission's call; that is why he deferred to Mr. McCoy.

Commissioner Forrest wanted to know what the delay difference would be between doing it this way and doing it without an emergency. **Director Miller** said the delay would be if it is filed today, it would be up for final action in October; it would be effective, at the earliest, in the middle of November, and at that point in time then they would start seeing contracts come before them if they chose the contract as the vehicle they wanted to use. One of the advantages of implementing it today is only to tell the staff to go ahead with this approach. The staff supports it in concept to get these contracts ready. That was some of the thinking behind it and also because he did make a commitment that he said isn't necessarily binding, that he would request an emergency on the staff's package when the RGA withdrew its petition. He said he did think that implementing a statute was an emergency basis.

Commissioner Forrest said that most of the staff work was done in conjunction with the industry and could go ahead in any event. **Director Miller** said that was correct. **Commissioner Forrest** said that he knew Director Miller had been thinking about this before the emergency rule, obviously.

Commissioner Ludwig asked if Director Miller thought he had the authority to negotiate a contract without this rule. He said he did not think the director had that authority. **Director Miller** said he did not think the new director will be putting a lot of staff time in doing this until he gets a formal affirmation that this is where the Commission wants to go. **Commissioner Ludwig** said his point was that, without the rule, the Director does not have the authority to go out and negotiate these contracts. **Director Miller** said he thought they would get things ready to go like they have already done. The contract is pretty much ready to go. There will not be a lot of adjustment there to it. It will be ready to go, but nobody will be entering into an agreement. There would be no reason because there is nothing to enter into.

Doreen Maloney, General Manager and Council Member of the Upper Skagit Tribe, said she understood the lateness of the date and that she would try to set something up for the future. Yesterday she commented about where is the state gaming industry going. As Mr. Bush pointed out, they look to the Gambling Commission as paramount in developing policy and a lot of information about what is really happening in a lot of the industries. Somewhere along the line and she thought fairly quickly, people on this Commission, people in the industry, including lottery and horse racing, have got to get together and see where everyone is going and what do they need to do to make it viable for all of them. Somebody mentioned that the Lottery is going to do bingo. She thinks the discussion must take place fairly quickly. She said she heard their concerns about the charities and their concerns about the card rooms, and the tribes have these same concerns and they really do need to get in the room and develop that. She is addressing this primarily to Senator Prentice and Senator Schow and said there needs to be another task force to look at it. The other thing she wanted to say is that the market may be available to grow in some areas, as the Squaxins said, and some of the areas they know that there is no place to grow. The market is not available. She is in the area where there are at least three of the casinos around and every single day they look as to whether or not they will survive. They cannot pay their bills, they cannot pay even the 2 percent contributions. Maybe there is market somewhere, but they do not know where it is. For some of the tribes up north that must get their customers in Canada are concerned because Canada now intends to keep their own customers and Oregon intends to keep theirs.

Ms. Maloney asked Senator Prentice how far people will travel. A good percentage still travel to Nevada. Most of the gaming money still goes to Nevada. She said Washington was a fairly substantial gaming state so she thought that Mr. Bush mentioned the question that no one wants to hear – electronic gaming, slots. She thought that somewhere along the line they will get there. She thought that it was honesty that tribes stand up in here and say that they still have this as a possible goal. But it must be done in a manner that it is not just tribes; there must be a way to share that opportunity within the industry. She wanted the Commission to think about how they could get together. And to the industry people, she thinks they have to get in the room; otherwise, they would just continue to try to leapfrog over each other and whose market will they try to kill next time? She suspects that the Commission will have to do something for the charities fairly quickly and some of the other things.

Senator Schow said the Legislature is going to propose that they put together a task force to look at the overall picture of gambling -- tribal casino gambling, horse racing, card rooms and the whole works -- because he thought it had reached the point where they need to come back together and look at where they were going and hopefully all get on the same page and not have this division between the different groups. Hopefully, that will take place in the very near future.

Chairman Ludwig said Ms. Maloney was the last speaker who signed up, but Mr. Tull was waiting. He called for a 15-minute break while the Commission members check out of their hotel rooms, since this meeting has gone overtime.

**** RECESS ****

Meeting resumed at 1:05 p.m.

Chairman Ludwig said now there would be more time to hear testimony.

Mr. Bob Tull said he was acting as the attorney for the Recreational Gaming Association. He said the package proposed by the staff was a process as much as it was a product. He said there were some responses he wanted to make that were appropriate following the thoughtful comments made by previous speakers. He said he could not overlook his personal history, which provides him with vivid recollections that nearly every single argument that was raised by particularly tribal representatives over the past couple of hours were substantially the same as arguments raised in the past by local government officials or by representatives of charities or by representatives of card rooms. They were raised at hearings on compacts, on rule making proceedings, and it all had to do with the fact that no one – if they had their wish – would have greater and greater competition. All of the arguments that were brought forward were at a policy level that are very difficult for this Commission to address. Secondly, they are on a level that has been addressed by the Legislature and, thirdly, they do represent whether it was a leveling of the playing field or a way of protecting existing industry. The Legislature had unequivocally and with wide margins of approval said that house banking player supported banking can proceed. The interesting arguments are still there, but they come down to the extent to which the Commission is comfortable in deciding which operator is more worthy. Is an urban bingo operation more worthy than a suburb and bingo operation? Should one card room be favored over another? The question of the tribes and their roles is pretty interesting in this situation because there is nothing that he is aware of in state or federal law or in these proposed rules that would prevent any of these tribal entities or sub-entities from applying under this program and participating. That was an option that was never available to the card rooms or the charities. They had to stick with what was available under state and local law.

Mr. Tull said his second point had to do with the discussion over impacts and community contributions. No card room in the state of Washington can proceed under these rules or existing rules unless they do comply with local zoning, other local regulations including impact fee requirements in connection with traffic or any of the other types of things that local government tries to regulate. One of the reasons why it was so difficult in the early stages of some of the compact formation in his experience was that it was very difficult to explain to local officials or other folks that the Gambling Commission simply could not make those normal rules about land use regulation apply to the tribes. That was a difference that Congress clearly contemplated and that 200 years of constitutional law supports. In this situation, the notion that there should be additional special hearings in the local communities would mean only communities that allow for commercial gaming will see it. They will only see it in the parts of their community that have been designated to allow it. They will only see it at the scale that those rules allow. They will only see it with the appropriate address of traffic or storm water management or whatever the other regulator issues are. He thought that was a bit of red herring that that the Commission should disregard.

Mr. Tull said the question of siting was one that was very controversial and as he had said, the issue was that the communities that some have decide they do not want to have card rooms will not have them. They can take them away. Operators know that. It is a potential volatile situation. The arguments are not particularly fresh. The issues are real. What they must deal with is how to best proceed. They have the recommendation of Director Miller that this package be adopted in the form of emergency rules. He strongly supports that as his clients do. The reasons for that are broader than what has been discussed so far. As has been discussed, the RGA deferred its petition because it would have been a burden – at least on the staff and perhaps on the Commission – to be giving serious consideration of that particular set of rules and it was deemed fair and appropriate to set that aside. That petition, however, was on their published agenda for the month of June, July and August. There was no lack of ability for those whose businesses were importantly affected by the Commission to be aware of what was going on. That same issue applies back to the Legislative process. There were the normal range of legislative hearings. Three members of the Legislature are here today and they can tell anyone whether this went

through in the dark of night. It did not. Or whether or not there was any concern raised at that particular level. So, the notion that this is an inappropriate time to start taking action, it is just not supported by the record. This matter has been out in the open here, it has been discussed in workshop sessions, and the Commission had a demonstration of some aspects of it at their June meeting in Spokane.

Mr. Tull said the other thing about emergency rule making, and Mary Prevost raised the notion, is that the Legislature has said that when someone does emergency rules, be careful because obligations are being imposed. Those who work in the regulatory climate in other settings know that when the government exercises the police power, it is preferable if it exercises it as little as possible and it does so under some scrutiny and some cautions. The reason why emergency rules are not typical is that they are almost always imposing new restrictions, not allowing new competitive opportunities. So in this situation, to keep a legislative philosophy going forward and to keep an overall regulatory philosophy intact, it is quite appropriate to say that they are not imposing obligations on the public. They do not have to have the same type of caution. The statute says for good cause. That is a call of the Commission ultimately. And they just have to decide whether or not there is any need to protract this. One of the things that Mr. Bishop mentioned to him, and he does not think he intended to supply him with an argument but a comment he made triggered it, and that is if the Commission will adopt these as an emergency rule package, then those people who want to start working these with the staff have to bring the money down and start supporting the staff and supporting the operation. Otherwise, there is going to be a lot of time spent over the next couple of months. They will get through much of the same work one way or the other, but the fees will not have been started. Some people will have to get serious when they have to write that check for the application fee. It will help sort out the work load and the sooner that sorting takes place, then a lot of issues will be addressed.

Mr. Tull said related to that is the only thing that they presently think is missing from the rule. He thought he heard support for what he was about to say in some of the testimony that preceded him. He would suggest that a section of the current test rule that requires a test participant to have already been a licensee for six months be continued in this process. That does not stop anyone from saying today that they are going into this industry. They can do so. They will have to though go get licensed as a card room. By that time, they will have learned the regulatory culture that this state has created; they will have determined whether or not there is any market share for them and their particular community and they can then decide if they want to go into the next phase of the test. Those who do not want to take any chances will of course await permanent regulations a year or two down the road.

Chairman Ludwig asked if the proposed rule had to be amended to encompass being licensed before they apply or could that be done through the process of the contract. **Mr. Tull** said he would ask that, if it is filed as an emergency rule today, they take Section 5 of 230-40-999. It says currently at subsection four. He said this was not an industry suggestion. He said he believed it was staff recommendation, "The licensee must have operated in a Class E-1 through E-5 card room either before July 1, 1996, or for at least six months before implementing the test scope of activities. He asked Director Miller about that this morning and he indicated that he did not oppose that change, but he is here and can speak for himself. So they would ask that the section currently in the rule carry forward and he thinks some of the concerns were addressed earlier about making sure that this is a carefully controlled evolution. It was fascinating to hear some of the comments from representatives of the tribal casinos about the importance of integrity. They share that feeling and think that the Commission will have to move with great caution in adjusting the rules to affect very small operations. That will take very great finesse on the part of the Commission.

Chairman Ludwig said that the rules that had been passed out to the commissioners have specific references to last year's card room enhancement program pilot study. He said he thought they would need to take that language in subparagraph four and add it to the proposed rule.

Mr. Tull said that was correct and he would recommend that that language at 999 sub four be inserted at either current numbered paragraph two or three or four – whatever stylistically was appropriate. That definitely would assure that the Commission's staff was spending its time on a little bit more sophisticated level during the initial parts. If it turns out that the test program works very, very well and very, very quickly, then that could be dropped. It could be abandoned. They could even include language that said it could be waived by the Director. It is not an attempt to keep people out in a market sense. It is an attempt to not have the regulatory process so jammed

up as to let anything slip by. He restated his conclusions that they think under procedural circumstances that have gotten them there, under the history of the state that has gotten them there and with the nature of the process that these rules involve that it is very appropriate to adopt these today and to then go through the remainder of the process to not only look at some contracts as they come forward, but to determine if there are other aspects of the test that is to be put in place. One of the things about the test contract is that it is clear that a licensee has to adapt to whatever the Commission or the Director decides next month or the month after that. This is not a situation here where moving with some expedition is going to tie the Commission's hands. Far from that – anyone who wants to participate has to come in and work under the direction of the Commission and the Director to see how this test program can go forward. He does not think there is risk for the Commission. There is certainly no risk in terms of the public and here the impact of the rule making is to allow a segment of the public that has been recognized by the state in the past as being worthy of some consideration and allow it to move into an area of activity that has previously not been available.

Chairman Ludwig had another concern regarding a comment by one of the morning speakers about people not having the location or market available to support a house bank card room for games. He asked if the Director under this proposed rule and/or ultimately the Commission would have the authority to take that into consideration when too many want to do this. **Mr. Tull** said he thought that would be contrary to state law. He said he may be extrapolating when he says he believes that there is no numerical limitation on the number of licenses and he does not think the Commission has the power to propose those.

Chairman Ludwig thought it might also violate the concept of free enterprise or free market process. **Mr. Tull** said it would violate those principles as some would understand them. His understanding of the statute here or at least the way it operated when he was involved in a different role is that they did not have the capacity to limit the number of licenses.

Director Miller said there is a specific statute that states that the Gambling Commission cannot limit the number of licenses. However, in the pilot mode, those normal rules do not apply, so it would be possible for the Commission in the pilot mode to say, because of staffing limitations or whatever the reason, they need to put some limitations on how many licenses are allowed to join the test. He said that is not part of the proposal but he just wanted to clarify that because of the pilot nature of this, this is not an ordinary rule making process and that is an exception that is allowed under the pilot rule making process. It has been his approach to rule making to get the people who are going to be regulated working closely with the industry. This Commission has for some number of years tried to do that, so he encouraged them to foster and support current efforts to have an open rule-making process. The emergency filing is consistent with the sort of open discussions over the past few months and it does not foreclose the Commission's authority or power in any way. With the amendment that they've suggested it will make sure that the workload is metered out over some additional months and it will assure the staff of quality control. Those in the industry think that is very important.

Director Miller asked to make a brief comment on the request by Bob Tull. The reason that was taken out was they did not want to arbitrarily limit, being that it was new legislation, the number. He did not, and they do not as a staff, have an objection, they do that as a policy call for the Commission. He just wanted to make that very clear. So it would be up to them to decide if they want limit that participation. Staff does not have a formal position on that.

John McCoy, Executive Director, Governmental Affairs for the Tulalip Tribes, said there were a number of things he wanted to say that had already been said, so he would not repeat them. Some of the issues he wanted to remind the Commission of was that tribes are governmental operations and that is where the money goes. They are not individuals out to make a profit. They are spending a lot of money on their health services, education, and so forth. Referring to the gentleman preceding him, he had made a comment that these rules here do not prevent tribes from going and getting a license and operate someplace else. He wanted to remind the Commission that the federal government might have a problem with their doing that. The Muckleshoot Tribe had made an attempt to buy a racetrack and they were denied a license basically, from everything he has seen and heard, because they were an Indian tribe. There are a lot of things that are going to have to be worked out. There are many concerns. He applauded senators Prentice and Schow for suggesting that there be a task force and they take a look at the entire gaming industry and what could be done to work on this. He said that when the federal Act was passed, there was no emergency rules put in place for tribes to begin operation. They had to wait it out. Tulalip

was the first compacted tribe and that happened in 1992. IGRA was passed in 1988, so it took four years, and he felt that the Commission should take the same diligent time to construct the rules and get the minimum requirements down like the tribes had to before these go into operation.

Vern Johnson, tribal council member, Lummi Tribe, said he had intended only to listen, but on second thought he wanted to say to the Commission that he thought they had an obligation to tell the people who want to go into business the risks. Every little thing makes a change in the gambling arena. They were the first tribe to put in gambling in the state. They started and were shut down and then they started again. He said they had worked with Director Miller and his assistants. He said they are proud of the fact that they followed all of the rules when they could have gone other ways, but they made the decision to follow the rules and go with it all the way. Since the casino started, the crime rate has been cut on the Lummi Reservation in half and the County would back this fact up. They put a lot of money into Whatcom County. However, it has come to an end. They are in the process of getting a loan to pay off their debts so they don't have to file bankruptcy. They are going to pay everyone that they owe. But they are shutting down and it is not because of what the Commission did. He hoped that the gentleman in the audience can make a go of it. Canada was what put the Lummi's out of business. They depended on Canada when they started their casino for 90 percent of their business and got only 10 percent from Whatcom County. The bill itself would not affect them but it seemed strange that they had five different tribes had five different lobbyists in the state and only found out the bill passed after it passed. They never knew anything about it. There is something wrong with the system when it does that. He appreciates everything the Commission has done and he got up to talk because he may never have another chance to meet the Commission and the others.

Director Miller asked to respond to John McCoy's testimony. He said if this six month limitation provision was put in, that they must be a licensee for six months, he had to believe that the Commission staff, even in the absence of language, would certainly consider a Class III operation that is certified as having six months' experience to participate. So maybe that would be good to have on the record, he thought.

Walt Levitt, and his wife, who operate the Grove Restaurant and Card Room in Everett, wanted to present some facts. Next month will mark 29 years that he has been at the Grove. He came to speak on behalf of the smaller operator. When he arrived at that end of town, there were five liquor places and now there are 22, so he understands this competition and knows how tough it is and he is a survivor. He and his wife sold the place in July 1991 knowing that there was going to be a casino. He discussed it with the new owner and the price was predicated on his losing some revenue, but it was more than he could handle and they had to repossess it in January 1995. They rolled up their sleeves, borrowed some money, and went back to work. Along came blackjack and he already had a card room, so he tried it. This marks six months of having blackjack from a \$2 to \$25 limit. So far he has had no fights, arguments, or problems. He notified the Liquor Board, of course the Gambling Commission, he has qualified for that end of it, and the local police. He put it on his reader board so the public knows he has it. Since then, he has taken in \$100,000 in quarters. He charges 25 cents per hand. So that is \$400,000 hands of blackjack in six months. He hired three full-time people and three part-time people at \$175 per week. He has one table 10 hours a day and on two nights they have a second table for five hours. These people make good wages, they have medical and they have a pension plan, and he happens to be a union bar. It has worked well for him. He also has experienced that word "trade stimulant." It has increased his pull tab and bar business and food business by 15 percent and they also have profit sharing. He hopes this can be worked out because he does not want to lose it. He said he would do anything as far as the rules. He has spent about \$40,000 so far on equipment, tables, video and VCRs and so forth, and he is willing to go along with anything the Gambling Commission wants him to do. His last comment is that in the 20-plus years he has been there, the Grove Tavern has paid the City of Everett over \$1 million in gambling taxes.

Jim Nelson said he came up here from the state of California because he was interested in the possibility of neighborhood casinos. Referring to the discussions of the day regarding the viability of the Indian casinos lasting with new competition arising, but he has not heard anything about the policies and procedures that will be implemented. He said there was a very eloquent speaker from one of the casinos who worried about the reputation of the games being tarnished if, in fact, games were unscrupulous or operated by unskilled operators and that is a concern. Having been in the business since 1979, there are ways that an operator can run one of these businesses and keep the integrity of games at an impeccable level, even probably better than is being operated here now or even in the state of Nevada. One of the newer states to get involved in the gaming industry

was New Jersey, and New Jersey was very good at what they did. They knew how to operate; they got very sound advice from experienced and knowledgeable individuals and therefore they operated a very gainful casino business without too many problems. Even there, because of the size of the communities and because of the level of competition, not everyone survived. He said the casinos here do not screen their players to see who can really afford to be there and who cannot be there. So some people go down and some people rise up above like the gentleman from Everett. He said he was not sure he had grounds to say whether the commissioners have or do not have gaming industry experience. It was hard for him to imagine any of them standing behind the blackjack table dealing or acting as a surveillant in what might be a potentially dangerous situation for the casino. He thought it would behoove the Commission to really go out and find knowledgeable individuals that could really point them in the right direction. Casinos have bad luck too. That might be some of the reason the individual from the Lummi operation might not have garnered the profit in his drops because possibly the game was just too easily beat or it was too easy to cheat. Part of the things that an operator must do is let the public know that the game is fair. That might also build up the market share. There are other players out there who would want to play if they felt that they had an opportunity to win. If it is done correctly, everyone will get that feeling.

Chairman Ludwig said he wanted to make a comment for Mr. Nelson's information and others there regarding the comments about integrity. The Commission feels that this agency – the staff of the Gambling Commission – is constantly aware of their mission to closely control whatever activity is authorized in this state and integrity of the industry and individual licensees is always foremost in the staff's mind as they are performing their function. He thanked him for his comments.

Rob Saucier, Mars Hotel, said he wanted to refocus on the issue of the free enterprise system. The issue is not whether or not they went through the proper due process with writing the bill, getting sponsors, going to committees, getting the Senate to approve it 40-4, or getting the House to approve it 97-0. That is legislative intent. He had several meetings with the Governor. He was very clear on what the issues were and he decided to approve this bill. Those issues are not before this Commission. That is the process a citizen goes through to have a bill become law, and they did that. The next issue was how do they get the rules in place. Again, they decided to follow the rules established by this Commission. There was not a need for there to be an emergency rule today because they filed their petition four months ago. They were prepared to go through the normal process. They decided to yield to staffs' wishes in order to facilitate a process that would bring to them today a package that has been well thought out and well negotiated, and they considered all the issues and today they have a package that is ready to go. They have rules in place. This proposed rule is ready to go. The staff says it, the industry says it and yet the caveat here is that the Commission has an opportunity in the future to approve each of the contracts that will be coming to them in the next month, two or three, as they have done in the past.

Mr. Saucier said the issue today is should this rule be approved today as an emergency rule and they are indicating, yes, the staff is indicating, yes, and simultaneously today the rule will be filed as a permanent rule for filing and further discussion, which means that two months from now, this rule can be a permanent rule and it will probably be changed or could be changed – it does not matter – because the contracts that come before them are probably not going to come before them any sooner than when it becomes a permanent rule in the first place. But this gives them the process that they know they are going forward, they know that the Commission has agreed that, yes, the pilot study is the way to move forward. They have the confidence, they put up the money, they must make investments in their places of business. He understands the gentleman from Harrah's who put a \$25 million investment in the state. He appreciates that and he knows that means a lot to him. He said he has a \$4 million investment in his property, which means a lot to the Saucier family. He said they have investments, too, that is why they went through the process. Today, what they are asking of the Commission is to reward them for following the process as citizens and approve the rule today as an emergency rule.

Commissioner Heavey asked Mr. Saucier if it was his contention that staff and the industry negotiate an agreement and then have the Commission rubber stamp it without looking at it independently. **Mr. Saucier** said he had never seen anything rubber stamped by this Commission. **Commissioner Heavey** repeated the question again. **Mr. Saucier** said no. **Commissioner Heavey** then asked Mr. Saucier if it were not appropriate for them to decide whether they wanted to look at it and analyze it in the normal fashion without adopting an emergency when there appeared to be no real emergency except to the individuals who wanted to get into the business. **Mr. Saucier** said that he knew that was the Commission's prerogative. He said he believed that they went forward and followed the due process that they were asked to do. **Commissioner Heavey** said that just because Mr.

Saucier filed a petition and followed all the proper procedures, it did not mean that the Commission would not have rejected it when it was filed four months ago. He said that the mere fact that a petition was filed and continued did not in and of itself start a clock running. He said that Mr. Saucier could have done one of two things 1) what they did – which was to wait for staff to go through their process, or 2) they could have come to the Commission and taken the risk that they would say no, this does not solve the problem and then reject it. If they would have been rejected they probably would be worse off in terms of time than they are now. He said that appeared to be the alternative and Director Miller kept his commitment to Mr. Saucier. He recommended to the Commission that they adopt it as an emergency and now it would be up to the Commission to decide whether or not they thought it was appropriate. **Mr. Saucier** said that he agreed completely with Commissioner Heavey that it was up to the Commission to decide whether it was appropriate. He said he believed, however, that the best way to regulate society is when the public and government get together and work together and that was what they had done.

Chairman Ludwig said that, regardless of what the Commission does – whether they just file the rule for further discussion or they file it as an emergency -- there will be further time to discuss it, even ample time when they consider discussing each individual contract under this study or test procedure. He then closed the public meeting. He said the rule was not before them yet by way of a motion. He suggested that the Commission proceed by deciding whether or not they wanted to file it and then after that, if it was filed, he thought they should consider amending it consistent with WAC 230-40-999 as suggested and then following that, they consider whether they wanted to adopt it as an emergency rule. He then entertained a motion whether or not to file the proposed rule.

Director Miller said that the entire packet goes as one.

Commissioner McLaughlin made a motion to file; **Commissioner Forrest** seconded the motion. **Chairman Ludwig** said it had been moved and seconded that the Commission file the rule. He then asked if there was a desire to amend it by including the language from WAC 230-40-999, which most of them had in front of them. Subparagraph four provides that the licensee who applies for a contract must have been operating a Class E-1 through E-5 card room either before today's date or for at least six months before implementing the test scope of activities.

Director Miller said that if the Commission decided to do that, he thought it should also include tribal operations that have been running just to avoid that issue, so they may want to amend that to include it as well. He said if a tribe wanted to come and build one – which they have a right to do – on non-Indian land downtown or anywhere, they could do it subject to the agency's jurisdiction, but they do not want an arbitrary rule prohibiting that. It says Class E card rooms, but it should also say Class III Class II tribal operations to include everyone.

Commissioner McLaughlin said she accepted the amendment and **Commissioner Forrest** seconded it. **Director Miller** said they would craft it for the Commission.

Chairman Ludwig asked if they wanted the suggestion made by director Miller. **Commissioner McLaughlin** agreed.

Commissioner Herbold said there had been another discussion about the implementation date that they would possibly add or such earlier or later date as shall be determined by the Commission.

Chairman Ludwig said there was a motion by **Commissioner Herbold** to amend the proposed rule, also by changing the date as suggested and he was unsure where it was. **Commissioner Herbold** said it was not on there – it was what she suggested when they were discussing the fact that they have flexibility and implementing earlier or later. **Chairman Ludwig** wanted to know where that fit in. **Commissioner Herbold** said it fit in at the end of item 2 under the new rule 230-40-900. She then corrected herself to say paragraph 1 that talks about the study commencing July 1, 1996, formal implementation by January 1, 1999, or such earlier or later date as shall be determined by the Commission.

Chairman Ludwig said the amendment to the motion and asked if there was a second. **Commissioner Heavey** seconded the motion.

Chairman Ludwig called for a vote on the last amendment offered by Commissioner Herbold unless there is discussion.

Commissioners Heavey and McLaughlin reminded **Chairman Ludwig** that they had already accepted both of the amendments.

Chairman Ludwig said the motion to file proposed rules listed in items 10 A through 10 E as amended was before the Commission. He reminded them that this was just for filing and called for discussion. Hearing none he called for a vote. *Vote taken, motion carried with five aye votes to file this motion as amended.*

Chairman Ludwig said that consistent with the recommendation, they should consider whether they wanted to adopt it today as an emergency rule and permit the process to start and the fees to be paid in at the outset and to have this continue pending further discussion.

Commissioner Forrest said he did not think there was anything that could honestly be called an emergency about this. It was a long term operation, the status was consistent with quite a few years without having these types of gambling operations and he thought that even if it were some small delay, it would be insignificant. He said he disliked invoking an emergency procedure when it was not really a genuine emergency that must be dealt with. He urged his fellow commissioners to file it and let it proceed in due course.

Chairman Ludwig asked for further discussion and comment.

Senator Schow urged the commissioners to adopt this emergency rule. He thought that if they were going to set up a task force to look at where gambling in the state of Washington is going to go and to make recommendations to the Legislature and to the Gambling Commission, this was going to be part of it and he thought they needed to get this process moving. He said it was the intent of the Legislature and they had the overwhelming support of the Legislature to get this started. He said they had kind of dragged their feet on this; he thought it would be of great advantage to the task force, that he hoped they would establish in the very near future, to have some input from what staff finds and what the Commissioners find as they are implementing it. He urged they support the emergency rule.

Commissioner McLaughlin said that she wished she could agree with Senator Schow because she admired what he does in the Legislature and he is interested in gambling, but having been in a position before when emergency rules were enacted, she always stated that she did not believe in them, she had reflected on one she voted for as an emergency rule and wished she had not, so she would have to vote against it today.

Chairman Ludwig said they had not yet received a motion to adopt as an emergency.

Commissioner Heavey moved to adopt this as an emergency and for lack of a second, the motion failed.

Chairman Ludwig said the rule was already filed for further discussion.

Director Miller said it could be passed for final adoption at the October Commission meeting and effective a minimum of 30 days after that meeting. It would be effective in November at the earliest at this point.

Chairman Ludwig thanked everyone for their patience. He pointed out that the agenda was not finished and they had an item on there called general discussion and other business and asked if the commissioners had any comments.

COMMENTS FROM PUBLIC OR PUBLIC OFFICIALS OR BOTH/GENERAL DISCUSSION

Greg Murray, President of the Washington Charitable and Civic Gaming Association, said his group was contacted by the Lottery Commission approximately three weeks ago asking for a meeting with them to discuss the Lottery Commission bringing on line bingo to the state of Washington. They have presented the charitable

bingo games in the state of Washington with some real problems with this plan. He said the WCCGA is asking the Commission and their ex officio legislative members to take some steps to try to head this off on their behalf if they were so inclined. The Gambling Act specifically set bingo aside for the benefit of the non-profit organizations in this state. There have been more and more challenges to their ability to raise money for providing services to the citizens of the state. They feel like this is one more attempt to take those dollars away from them that they need vitally to provide the services that they provide to the citizens. They were asking that the Commission address a letter to the Governor and also to the Lottery Commission taking a stance that this should not go forward – that bingo should be reserved as an activity for the non-profits in the state of Washington.

Commissioner Heavey moved to support the WCCGA as Mr. Murray requested. He said they had heard testimony yesterday about three operations that provide a very much needed service to the people of the state of Washington and it seemed to him that the Commission would not want to dilute their ability to raise funds anymore than they have to in order to meet specific legislative requirements established in terms of gambling in the state of Washington. He really thinks the Lottery Commission ought to just play Lotto and let it go at that.

Commissioner Heavey moved that the Gambling Commission write a letter to the Governor asking him not to do that because it would interfere.

Commissioner Herbold said it may be beneficial for that letter to be copied to or a separate letter be directed to the Governor. **Commissioner Herbold** seconded the motion.

Chairman Ludwig said he agrees with the motion and the comments. He said that this Commission, except for the ex officio members, has no more influence with the Lottery Commission than he does as a private citizen or no more influence with them than they have with the Gambling Commission. He said they would listen to the WCCGA if it were something that they considered appropriately. **Mr. Murray** said they were aware of that and they planned to speak to them, too.

Vote taken; motion carried with five aye votes.

Chairman Ludwig said the meeting is now two hours overdue. There will be an executive session following this to discuss personnel matters. Public meeting adjourned.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant